

**COMMITTEE OF THE WHOLE
MINUTES OF THE COMMITTEE OF THE WHOLE MEETING HELD ON
TUESDAY, SEPTEMBER 12, 2017 IN THE MAYOR'S CONFERENCE ROOM
AT THE EDWARD J. LATAWIEC SERVICE CENTER**

CALL TO ORDER:

The meeting was called to order at 4:00 p.m. by the Committee Chairman, Kenneth M. Dooner.

ROLL CALL:

Council Members: Kenneth M. Dooner, Duke Southworth, Joseph C. DeMio, James E. Carbone, Matthew A. Schonhut, Michael J. Daymut and Gordon C. Short. **Administration:** Mayor Thomas P. Perciak, Law Director Neal M. Jamison, Assistant Law Director Daniel J. Kolick, Assistant Finance Director John Mockler, City Planner George Smerigan, Building Commissioner Anthony J. Biondillo and Economic Development Director Brent Painter.

Mr. Dooner – What we'll do is go and take a roll of who's here. I'll start and we'll go around the table.

***Roll call done. Members present stated their names for the record, and are listed above. ***

Mr. Dooner – Okay, thank you and thanks everybody for being here. I know some people have to leave at 5:00. Right on the button; so, we'll do that if we can. We're here to discuss the possible rezoning of property that is currently owned by Puzzitiello Homes off Prospect and Boston Roads. I'll turn this over to the expert, George; so, off you go...

Mayor Perciak – I think we better, we better redirect what we're here...or the discussion to rezone. Let's get the proper legal name...

Mr. Jamison – Let me, just for the record say that we're here to discuss a proposed application to rezone certain property on the southwest end of our town off of Prospect and Boston Road. It's actually owned by, right now, four different entities or individuals in this area. They are seeking to change it from general industrial to residential. We had a previous discussion...

Mayor Perciak – Excuse me Mr. Law Director, we should recite the owners of the parcels.

Mr. Jamison – Okay...

Mayor Perciak – For the record.

Mr. Jamison – The owners currently for the different properties are: Tiburon Investments, Inc., Parkview Custom Homes, Emil Karim (that's K-A-R-I-M), North Park Developers, LLC., and also, there is another guy in this...

Mayor Perciak – Swan...

Mr. Jamison – A Thomas Swan (S-W-A-N) who's also involved in this. Those are the entities that have come forward, by and through Parkview Homes for this proposal to rezone these various properties; again, from what it is now general industrial to residential. We had previously had a meeting about this; I believe back in May, before the regular Council meeting. Actually before caucus...I think we did it. At that time, Council had said we would readdress this in September; which we are now doing. In the interim, the Law Department and more

importantly, the City Planner have had a chance to review this proposed application and we're here to report back to Council today or more importantly, Mr. Smerigan.

Mr. Smerigan – Alright, let me kind of go through it with you real quick. The properties when combined total about 180 acres. The bulk of it is zoned general industrial. They're looking to rezone it to R1-100 and R1-125; also, interested in doing a cluster development at the very north end and going to the larger lots as you head to the south. The property would be coming out of the general industrial. It is sort of a significant policy change for us; from the stand point that over the years, we have not taken much plan out of general industrial to use for other uses. We would be taking this out to use it for single family residential. The flip side of that is as we go east from Foltz towards Prospect, the land becomes much more difficult in terms of topography. The streams that run through it or to use for industrial purposes. It's hard to create fairly significant industrial sites as you go to the east; so, that land becomes much more difficult to work with from an industrial stand point. The property along Prospect, as you know, we've always tried to maintain as residential. We have this odd zoning situation where we rezone the front of those lots single family residential. Specifically, R1-75 and then after a certain distances from Prospect, everything went to general industrial. We have what amounts to a very problematic zoning scheme along Prospect at the present time. What they are proposing to do, would allow this land, which is unlikely to develop for industrial for an extended period of time, to be developed and used in an effective manner for the City. We have a couple of issues going on here that we need to be aware of. If they were to develop this property, one of the things that they would do is they would have to go through and get their wetlands approval. One of things that we would want to tie to that is the Foltz Parkway extension and where we need to go. One more stream crossing in order to access the rest of this land further to the south. It would be more appropriate and easier if they tied that approval into their approval since they have to go in anyway. That would save the City some money. It would probably expedite getting this approved because this will be a difficult approval for us on our own.

Mayor Perciak – I would recite the agency that we're talking about.

Mr. Smerigan – What we're talking about is going to the Army Corp. for the wetlands approval and to the Ohio EPA. Now, this land as I indicate, has limited industrial potential. Brent and I have talked about this. We have land that has better potential and better access. It has utilities which this does not have at the present time. It's more likely to develop industrial. We don't see this being able to develop industrial anytime in the near future. The second part of this is if this land is develop industrial, we'd have industrial behind...immediately behind the homes that front on Prospect. They're talking about taking the 180 acres and leaving a piece of it at the end of the cul-de-sac as general industrial; but, the rest of it would go into single family residential. We may have issues with the properties that front on Drake, in terms of taking the land that's immediately...the industrial properties...taking the land that's behind them and going to residential. It raised an issue in the past and that could very well come up again. As you know, we no longer...

Mayor Perciak – Identify that parcel of land, please.

Mr. Smerigan – It's the land that's on the south side of Drake, next to our, our little park facilities. You're talking about the owners that are along this side of Drake.

Mr. Jamison – South side.

Mr. Smerigan – South side of Drake. We would anticipate that we are going to need, if this thing goes forward, we're going to need some adequate buffering in there. Otherwise, we're

going to have issues from the existing businesses about residential being next to them. As you know, our plans initially anticipated that Foltz would get extended all the way to Boston; but, that was when we thought that Boston was going to get improved and we were going to have an interchange. At this point, there is no interchange on the horizon for Boston. There are no plans at this point to enhance Boston; so, dumpling truck traffic onto Boston doesn't make a great deal of sense...

Mayor Perciak – You can't.

Mr. Smerigan – We have two streams crossing here. The first one we think you'd want to cross in order to access the land between the two streams. At this point, we have no inclination to cross the second or further south stream. Getting to Boston is no longer worth doing. If this property is to be rezoned, one of the things that happens is we create an island of general industrial. On this large zoning map, I outlined the property that we're talking about in blue. The property that is outlined in red would be the remaining general industrial, if we did nothing. Frankly, we can't create a situation where we're going to create an island of general industrial totally surrounded by single family residential. It is non-functional. There is no way to sustain that. We can't do that. Remember too, we have a provision. We can't take industrial traffic through residential neighborhoods; so, the back of all those parcels have industrial on the back and residential in the front. They can bring their driveway out to Prospect. If they had industrial use on the back. We have an issue there. We have a problematic zoning situation to start with. We have what maybe an opportunity to clean that up; but it's going to take more than just what Puzzitiello and his partners want to do. It's going to take another action to do these other pieces that they don't control. Now, there are 15 parcels in there that would be isolated. 14 different owners. There is one owner that owns two pieces. One of the 15 owners is also part of the deal for the rezoning; Swan. He owns one more parcel in there. This island is about 30 acres. Frankly, the only way to make this happen, since they don't owe it and they're not going to control it would be for the City to initiate the rezoning of that industrial island. If you're going to go forward with this. To rezone that island into single family residential. Otherwise, it makes no sense and you're essentially going to be creating a problem.

Mayor Perciak – And...Mr. Smerigan if you would, identify those parcels as the back land of the properties facing Prospect, correct?

Mr. Smerigan – Do you want the names of the people?

Mayor Perciak – No, I would just like to identify something so that they would know...

Mr. Smerigan – We have it on the big map, right here...

Mayor Perciak – Alright.

Mr. Smerigan – It's the dark gray...on this large zoning map, it's the area that's outlined in red. Like I said, it's about 30 acres and 14 different owners. 15 permanent parcels. What it would take to do this would be for you as Council to initiate the rezoning. You would have to agree to rezone the property from industrial to residential. If you're not prepared to do that, then there is no reason to be talking about the Puzzitiello rezoning because you can't do one without doing the other. He has no ability to initiate a rezoning on property that he does not own. Now, as you know, some of you may remember, this came up years ago and some of the property owners opposed to rezoning the property behind them. I think some of those folks are still there. There's a couple ways to look at it. Some of the property owners will realize, essentially, they're rear property is zoned industrial and it is costing them money and they can't use it. I've occasionally had property owners apply for permits, to do things in the back of their property

that I cannot approve because it's not residentially zoned. The property owners are unable to do anything residential on it. It's causing them some heartburn. The flip side of the coin is, they may have in their mind that Vitamix or somebody's going to come walking in their door and buy their back land for a small fortune. Frankly, let's be honest, we know that's not going to happen. Particularly, since we are not allowing truck traffic on Prospect. The rest of the land further south of that, wrapping the corner between Prospect and Boston, is already zoned single family residential. What you would be doing is making it consistent with the whole area. This is already zoned...

Mr. Daymut – Is that cluster at the corner or is it just...

Mr. Smerigan – It's all single family...

Mr. Daymut – It's all single family...

Mr. Smerigan – Residential. It's all single family residential. What you would be doing is you'd be taking this square that is essentially bounded on the south by Boston, on the east by Prospect, on the north by the south end of our park facility and on the west by the lots that front on Foltz, and you'd be making that whole thing residential. Essentially...

Mr. Carbone – Residential R1-75?

Mr. Smerigan – No, you'd be making...what their request is R1-100 and R1-125.

(Multiple conversations)

Mr. Smerigan – The piece that we would want to change...I would suggest that we change to R1-75 because that's what their frontage is and those lots are only so wide. I think it would be a disservice to those property owners if we made it anything more than R1-75.

Mr. Jamison – It's a better visual. It's these folks down here.

Mr. Smerigan – I have the names of the people and what they own. It's about 30 acres.

Mr. Short – Have we had any conversations yet with any of those people? The...

Mr. Smerigan – No...

Mr. Short – Puzzitiello or the City...

Mr. Jamison – That...I don't know. I don't know what...if they've tried or not.

Mr. Smerigan – I know at least some of the people they contacted because they were trying to buy more property. I can only assume since they've come forward with this plan that they've determined that this is as much property as their going to get their hands on. I can't speak for them.

Mr. Dooner – They gave us a drawing about a possible...a future use and some of it would fall into their R1-100 and R1-125...

Mr. Smerigan – We told them when we talked to them about this. Before they brought it forward to you. They would need to provide...the original plan did show (inaudible) to that area because...

Mr. Dooner – Right.

Mr. Smerigan – They didn't owe it. We told them they had to provide (inaudible). We have to give those people an opportunity to develop their land and use it too. Their back land. Whatever plan they came forward with would have to provide ways to use that kind of "L" shape area that I have identified that would need to get rezoned. We have not had conversations. The administration has had no conversations with any of these property owners in terms of doing anything with their land because unless Council directs us that you want to go forward with initiating the rezoning. There is no reason for us to be talking to those people. We're not going to create a flap if there doesn't need to be one.

Mr. Dooner – If we decide we want to rezone that we have to rezone that little piece you've carved out. Do we have to then go to the residents and tell them what we're doing?

Mr. Smerigan – Yes we would. We would notify them that the City is contemplating rezoning that would involve their property, a portion of their property. The back portion.

Mr. Schonhut – When we've talked about this before, with these bowling alley lots if that's what you want to call them, when we talked about it three years ago, about making residential lots sizes bigger, the argument was always, you can't do that to other people's property without their prior approval. I mean, that was the argument three years ago. I don't see why it would be any different here.

Mr. Dooner – Parkview would have to buy their property, correct, if we change it? Parkview would have to buy it.

Mayor Perciak – No, they won't have to buy it. I think we're getting a little mixed up here. I think George addressed this earlier. This strip of 30 acres would be R1-75.

Mr. Smerigan – Correct.

Mr. Schonhut – Correct but then...

Mr. Smerigan – It gives the people the ability to use the property or sell the property. They could sell to Parkview. I'm assuming Parkview would be interested in acquiring it, why won't they. Particularly for...forcing them to (inaudible) streets out to it. It would only make sense. They can pick up some additional lots. They're going to run the road that far in anyway. I think there's an opportunity for those people to recoup some value out of the back portion of their land, which quite frankly has no value at the present time. There is nothing they can do with it.

Mr. Dooner – We'd be doing them a favor by...

Mr. Smerigan – I think so; but again, the individual property owner may or may not see it that way. Personally, this is what I do for a living. Yes, I think we're definitely doing them a favor. Now, I don't think there's any way to realistically consider the Parkview application, well, we don't have an application yet but...

Mr. Jamison – Right. Potential...

Mr. Smerigan – The Parkview request, unless you're willing to go forward with rezoning those other properties, because you would create a very untenable zoning situation. One that we just couldn't defend.

Mr. Daymut – I have a quick question. This goes back in my memory bank, Dan, you can help with this...this, the line here on one of the last drawings we have, up against the residential on Prospect. If I remember correctly, it's 200 feet that are guaranteed to be buffering from...

Mr. Kolick – The set back there for industrial...

Mr. Daymut – That's correct. From the back of their lots.

Mr. Kolick – It's marked on the zoning map. I don't know if it's maybe 300...

Mr. Daymut – Is that from the back of their lots.

Mr. Kolick – No, from the...

Mr. Daymut – Centerline?

Mr. Kolick – From the frontage. Either from the right of way or from the centerline, Mike. Tony, what's that show there?

Mr. Biondillo – Its shows right here...

Mr. Kolick – Yes, but how many feet does it show?

Mr. Biondillo – Does somebody have cheaters? A magnify glass?

Mr. Smerigan – 200...

Mr. Kolick – 200...

Mr. Smerigan – 200...

Mr. Kolick – I think there should be two lines there. One for the building line and I think one for setback.

Mr. Daymut – I didn't bring mine.

Mr. Biondillo – 200.

Mr. Kolick – Yes, its 200 feet.

Mr. Daymut – Have they come...did he come in for clusters or...

(Multiple conversations)

Mr. Kolick – I mean, obviously if we would change this...this Council determines they want to change...you change all those setback lines too.

Mr. Smerigan – Right, well they go away...

Mr. Kolick – Right.

Mr. Smerigan – They were buffers between residential and industrial. We won't have any industrial there. The nearest industrial will be...you will be restructuring the area on the west

side of Prospect. You would be making it a single family residential neighborhood. Again, a portion of it cluster, a portion of it conventional lots and then some of the larger lots that I know you've been pushing for. This is what's in front of you. There is nothing to discuss unless you are prepared to go forward with changing that 30 acres.

Mr. Daymut – One other question, this dotted line here on this particular map. If I remember right from our initial meeting, they did not control this? Even though they indicated that...I know this is separate...

Mr. Smerigan – The red dashed line?

Mr. Daymut – Yes, what's the red dashed line?

Mr. Smerigan – That was the difference between the R1-100 and R1-125.

Mr. Daymut – Okay, but they do control that? I thought there was some discrepancy...

Mr. Smerigan – Yes, they control it...

Mr. Daymut – Even though they were showing there process. Not including this one.

Mr. Jamison – This is the one that shows what they control at the present time. Essentially, if you look at that big one we highlighted in yellow...

(Multiple conversations)

Mr. Smerigan – Some of these they own and some of these they have a purchase agreement.

Mr. Carbone – What they own and what they have purchase agreements on, would it complete what they're proposing?

Mr. Smerigan – Yes.

Mr. Carbone – What they own...

(Multiple conversations)

Mr. Smerigan – They either own or have opinions to purchase everything that I've outlined in blue here. This is basically everything that you have on these drawings.

Mr. Carbone – Okay.

Mr. Smerigan – They control and they own.

Mr. Jamison – Right.

Mr. Smerigan – They have an agreements. Tentative agreements with some others.

Mr. Carbone – Outside of this still? That's with the future...

Mr. Jamison – No, well that's the future, right. That would include this...

Mr. Smerigan – Since they've done this plan, they have apparently come to some terms with Swan. There is a drawing that shows it's extending over into Swan's property...

Mr. Daymut – He's the first one to the south?

Mr. Smerigan – He's the first two lots to the south. He actually owns three lots but his third lot is not contiguous to the first two. There is another property in between him. He owns the first lot, the second lot and the fourth lot.

Mr. Jamison – These two.

Mr. Smerigan – Apparently, he's come to some agreement with them to put two of them into the rezoning because they've included it in the most recent submission.

Mr. Daymut – Okay.

Mr. Smerigan – This is our understanding, which means one of those 14 property owners that we would have to rezone their property is already in the deal to rezone. These other two lots. You'd just be rezoning his third.

Mr. Jamison – Actually this one is the old one. That map, the big one in front of Gordon is the most up to date. That includes Swan.

(Multiple conversations)

Mr. Daymut – Would that remain 14 on Prospect then? 14 on Prospect?

Mr. Smerigan – There's 14 lots left. Actually there are 15 lots, 14 owners.

Mr. Daymut – I notice it's shaded in this drawing here, half a lot or...I am not sure what it is. Something...one way or another...

Mr. Short – Right, you see how this one right here, how it's half shaded, and that lot is half. Half and half...

Mr. Smerigan – It's half...

Mr. Daymut – That's kind of strange.

Mr. Jamison – Which one are you looking at?

Mr. Short – You see right there.

Mr. Daymut – Yes, it's kind of a half lot...

Mr. Smerigan – Actually this is inaccurate. The zoning line actually does this. This one would be a whole lot. This one won't be touched at all. The zoning line comes around. It's just an error...

Mr. Daymut – This is all GI, right?

Mr. Smerigan – This? No. This is all...

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Mr. Dooner – No...

Mr. Short – It's residential...

Mr. Smerigan – Single family residential...

Mr. Daymut – Okay.

Mr. Jamison – If you look at this map it shows you...

Mr. Smerigan – That corner...yes...so what happens is, this little corner is already single family residential, okay? This frontage along here is already single family residential. They are leaving this piece that they own, right here, in GI that's on the cul-de-sac back in the industrial park (inaudible)...right...not every acre that they own is going to get rezoned because some of it is already R1 and some of it is staying GI. What's outlined in blue is what they actually control. The legal description for the rezoning would be slightly less. They'd actually end up rezoning 156 of the 177 acres that they control. What you'd be doing is rezoning like another 30 acres. We would be rezoning about 190 acres of land. Almost 200 acres.

(Multiple conversations)

Mr. Schonhut – One of my major concerns is that our zoning codes are, in my opinion, outdated. We learned that the hard way with Fieldstone Preserve. I mean technically, they can come in with probably 165 cluster homes in the R1-100 if they wanted to. Unless we had some kind of prior agreement in place and that's an issue for me.

Mr. Dooner – Can't we force them...

Mr. Smerigan – There is nothing that prohibits you from having a development agreement with them relative to the property. You could certainly enter into a development...a separate development agreement.

Mr. Schonhut – I see with the Swan properties, obviously they, just from those two parcels, they added five single family homes and 22 clusters...

Mr. Smerigan – Well, their...

Mr. Schonhut – Obviously, they want to add more clusters and given that our zoning code is the way that it is, which allows clusters in R1-100 for whatever reason, they could put clusters throughout this whole thing without...

Mr. Smerigan – Understand, unless we enter into some development agreement, all these drawings are just for informational purposes...

Mr. Schonhut – Yes. I get...

Mr. Smerigan – I'm not doing code reviews on these because right now it's all zoned industrial. What code am I going to review? They may or may not be able to get the yield their talking about. I haven't tried to determine whether or not they meet all the standards and whatnot. I think they're probably going to get slightly less than what they're talking about, to be honest with you. I saw a few things that didn't look like they were going to meet it. Regardless, I think either you need to assume that they're going to do some development that complies with our regulations, if you rezone it. We'll have those development plans and review those as part of

our normal process after the rezoning or you have to enter into some kind of development agreement in advance with these guys that structures what this development is going to look like. You have the authority to do that.

Mr. Daymut – I think the key to this whole thing is just somehow finding out what the residents along Prospect, Glen...

Mr. Short – Well that's...

Mr. Daymut – James Way, is going up against them. They don't have water down there, if I remember correctly on James Way but, am I correct?

(Multiple conversations)

Mayor Perciak – I don't know...

Mr. Daymut – I don't think they have water. They may have wells, but what I'm saying is...

Mayor Perciak – Ken Mikula would be here and Lori Daley; but, they're at a conference that was scheduled a long time ago on actual traffic, roundabouts. We're there and we're seeing what we can do so that...who knows what the future has or what ODOT or what some of these agencies may require of us when they attach certain things to these grants that they give us. That is why they are there. Otherwise they'd be here and they could answer that for you, Mike and I don't know.

Mr. Daymut – Yes...I just think that trying to go back to our days...

Mr. Smerigan – No, the people that live on James Way; what abuts them would be going from industrial to residential...

Mr. Daymut – Right, that's what I'm saying; but, no matter what it still effects the residents.

Mr. Smerigan – No question...

Mr. Daymut – I would want to hear from the residents before we enter into...I think sometimes, I feel as Council we suffer from the sins of the past when the Council decided they wanted to do the best thing for them. Going along Pearl Road or 82 and splitting lots and zoning. The front, general business. In the back, single family. Then all the sudden, we have a lot of rezoning request coming from...Giant Eagle was one of them. Your ward south. Nick Americas next to VFW...getting another one in here...local business supposedly. When we start splitting lots, that what I think cost us some problems. I'm not saying this is not us. If I remember correctly, talking to some of the founding fathers, part of this was because, Dan, maybe you can help me, the Forest City owned all this land up here at one time or...

Mr. Kolick – A portion...

Mr. Daymut – Yes. They did and they were proposing 40 foot lots in the '60s. This is how we got our Master Plan originally, was the fact that they decided to make bigger lots and define industrial (inaudible). The Council just came in and did whatever they wanted to do for the official lines. I think we're at a different point.

Mr. Smerigan – Understand, I'm not advocating anything. I am just trying to make sure that you understand that you've got a preliminary proposal before you. This proposal would make

a fairly significant change to a fair amount of acreage. In order to accomplish it, it's going to require that you also do something else or there is no sense in even discussing it. That to me is what this is all about. I think there are certainly advantages and disadvantages to making those changes. It's a policy matter and it's Council's call. Whatever you want to do, we'll make it come out as best as we can. This is going to be a policy call on your part because there is nothing going to go forward in terms of doing anything, unless you are willing to proceed with it.

Mr. Dooner – If we did do the rezoning of that land, it will add to them 22 more clusters, Matt...

Mr. Schonhut – Yes, 22 clusters and five single...

Mr. Dooner – Five single family and then 20 R1-125. It's coming off the R1-125 area...

Mr. Schonhut – Off the land that they would like. Including...

Mr. Dooner – Right, yes...

Mr. Schonhut – I'm talking about the two, because these two are not outline in the...

Mr. Daymut – No.

Mr. Schonhut – These two. They own or could own. I think these are a far cry from...

Mr. Jamison – Understand the conceptual that they provided. George and I went over it this morning. We have some questions as well; because, if you look at it, James Way, they show it not going through and that is something that we would have to address with them.

Mr. Smerigan – There are things that need to be done differently on their plan; but, that's...I don't even want to get into the details of their plan if we're not interested in looking at the rezoning. The question is from a policy standpoint and a conceptual standpoint; is changing this industrial land to single family residential something you want to consider. If it is something you want to consider, are you prepared to go forward with changing these other properties at the same time, because it's the only way it's going to get done.

Mr. Schonhut – What's this? Was that supposed to be a street at some point?

Mr. Smerigan – James Way?

Mr. Jamison – SMB Drake, LLC...

Mr. Schonhut – It's just a really tiny...

Mr. Jamison – I don't know the history on that. It's actually, if you look next to our map, it's the same company.

Mr. Kolick – No, that years ago...we had set aside to connect into the industrial so you didn't have to take trucks down Prospect.

(Multiple conversations)

Mr. Smerigan – Set to be a right of way.

Mr. Kolick – That was supposed to be a right of way off of Drake so that we would not have trucks going down Prospect.

Mr. Painter – That property was controlled by Duke and obviously pulled out of this area. They since have given that to Vitamix. Not that Duke Southworth...

(Laughter)

(Multiple conversations)

Mr. Biondillo – We were just contacted by Vitamix to see if that dedication can be vacated so they can expand their parking lot.

Mr. Painter – That was the intent at one time and just to be clear, Vitamix doesn't own that building. They lease it. It was given to the owners of the building but Vitamix would utilize that for parking expansion.

Mr. Smerigan – That was originally a right of way into the industrial area.

Mr. Kolick – On this layout, this is just plopped down on here so to speak. Understand our Engineering Department may say this space has to be twice the size...

Mr. Schonhut – I get that.

Mr. Kolick – You're not getting these units over here...

Mr. Smerigan – Yes, I won't get too hung up...

Mr. Kolick – We haven't gotten into the detail engineering on this stuff yet.

Mr. Short – As the ward Councilman, Mr. Kolick if I can interrupt...

Mr. Kolick – Sure.

Mr. Short – I would like to see one... I understand the concept, George. I agree with you. It makes sense that if we're going to do it, we've got to get this. We can't have this island out there. I'm fine with that; but, what if this Council as a whole wants to consider the rezone, I would like to talk to my residents there. We may think it's the best thing for them. Maybe they'll come back and say you're nuts. I don't disagree that having split zone property doesn't help your value, but I'd like to have... I don't know how I would have that discussion. Do I go knock on their doors and talk to them individually or what. I'd like to find out what their sense is. This is a big impact to them. They may be thrilled we're going to do it or they may think we're crazy. I am not going to have those conversations with them, if this Council as a whole doesn't even want to consider this part rezoned. You guys have to give me my marching orders and I'll be happy to go do that.

Mr. Dooner – Joe, you've been around here the longest. You and Mike. What do you think?

Mr. DeMio – I'm going to have a long talk with our Law Director in a private setting. I hear different things over the years and I want to hear it from the lawyer. That is what I think.

Mr. Dooner – Do you want to fill us in on what you've heard over the years. I mean, you've got more experience than we do.

Mr. DeMio – No...

Mr. Short – Will you tell the ward Councilman that?

(Inaudible)

Mr. DeMio – Anything else?

Mr. Dooner – I guess not...

Mr. Kolick – If we need to know to move on, we could go into executive session and talk here, Joe. If that will help move things one way or the other. We can't...

Mr. DeMio – It's up to you guys.

Mr. Kolick – I'm not opposed to that because if there are legal questions, I'd rather discuss them in executive session anyway.

Mr. Dooner noted the necessity for an executive session for the purpose to discuss legal matters. Also present from the Administration: Law Director Neal M. Jamison, Assistant Law Director Daniel J. Kolick and City Planner George Smerigan. It was so moved by Mr. Southworth and seconded by Mr. Daymut to adjourn from open session into executive session [Article XI, Section 9, City Charter]. All members present voted aye and the motion carried. Council adjourned into executive session at 4:34 p.m. The executive session concluded at 4:40 p.m. and reconvened into open session.

****Note: Joseph C. DeMio left the meeting at 4:40 p.m.****

Mr. Dooner – My question is this, we've all met with Parkview. To be honest, I don't know if we ever said...if I ever said to them, this has to be rezoned and it's all or nothing. Do you guys, does anybody recall that?

(No comment)

Mr. Dooner – Parkview talked to all of us, just to get our feel for it. It was regarding the rezoning to residential. Jimmy, you told them you wanted R1-125s and limited amount of clusters. All that stuff. They put together a map showing what they proposed it to look like and what future growth might be, which includes the land that we have to rezone or it doesn't go forward. Anyways, it has to be rezoned residential because half of it's residential and half of it is industrial. Correct?

Mr. Smerigan – Just for the record, I have had the conversation with them that there is no way to do this without rezoning the other land and they're not in the position to rezone that other land so. Short of an application signed by those property owners, the only way that could happen would be if the City initiated it. They have been advised of that. They're not in the dark.

Mr. Dooner – Okay, okay. Well, I don't think we have anywhere to go with this meeting anymore with Joe gone. I will reach out to Parkview and just make sure, "hey, are you aware that this is what happened. We have not come to a conclusion on our end and we'll get back to you." How's that?

Mr. Carbone – I didn't realize, we would have to initiate the rezoning for those properties.

Mr. Dooner – I don't think I did.

Mr. Carbone – If it was said, I don't...

Mr. Daymut – I don't think we did...

(Multiple conversations)

Mr. Smerigan – There is no other way for that to happen. The only other way it's going to happen is if all 14 of those people sign the rezoning petition. If you take a petition around, you're initiating it anyway. Or, Parkview can go out and buy the backs of all those properties and that's not going to happen in the foreseeable future. If we don't do it, in my opinion, it won't happen and if that is the case, I don't see how you could even legitimately consider the rest of the rezoning...

Mr. Southworth – Mike or Dan, not necessary on this project; but in your guys collective history of Strongsville, has there ever been a City initiated rezoning, like this that have gone through?

Mr. Kolick – Well, Duke I guess it's how far back you take it. When we did...

Mr. Southworth – There is one way back there...

Mr. Kolick – Way back when we did the initial zoning. Other people owned all these properties. We didn't go around and have people initiate it...

Mr. Southworth – Right.

Mr. Kolick – We zoned as the City and did it.

Mr. Smerigan – The whole industrial area was zoned...

Mr. Kolick – Subsequent to that time, probably late, late. Probably nothing to this scope. We've taken individual parcels and smaller parcels and did it. Matt's correct; when we said before and we reiterated, obviously if you going to rezone somebody's property, they have certain rights in it. Would you prefer to have them sign on board to say yes? I want my property to be rezoned. Absolutely. Do they have to, as a matter of law? No. You're the legislative body. You make a determination. They have rights as the property owner on their property. Now, they would have to show that even though it's zoned or you rezoned it that it is unreasonable rezoning. We've always mentioned that. Jim, I think your comments too is...typically, if you don't have something this grand scale, if you're going to do something smaller. You'd like to have those property owners signed on and say they agree to do it. This way you avoid any possible conflict with them not having signed on to do it. Can you do it? Yes...

Mr. Southworth – Oh, yes...

Mr. Kolick – You can do it and that's not the question. Is the policy decision do you want to do it and that's really what we need to see?

Mr. Smerigan – That's the whole industrial area...

Mr. Southworth – Oh, yes, but way back then...

Mr. Smerigan – That's way back when, exactly.

Mr. Daymut – What I, maybe Dan can help me, but it's been 26 years. I never remember. I've always had the stance that we have to get either someone that controls the property or somebody applies for the application. I have never initiated that because way back when, going back with Lighthouse and Dan will verify this. We ran into some real problems with these things as we moved along on the pretend. Here is the way I view it, and maybe I'm just drawing on our annexation. There was a project that came in here one time to annex all the way to Emerald Woods golf course. The problem that I had, personally with annexation was the fact that they would leave a parcel here, a parcel here, a parcel here and a parcel there in Columbia Station and it doesn't make any sense to me. If you have one person here or several people that are not interested in it, one it's not going to go and create problems. I think the real way to handle it would be to, because they might be interested in. Give them the opportunity to make some comments in it and then give us some direction.

Mr. Smerigan – Be prepared for the fact that it's highly unlikely that all 14 of those...

Mr. Daymut – I agree.

Mr. Smerigan – Owners are going to say...

Mr. Daymut – I agree, but still...

Mr. Smerigan – That they agree...

Mr. Daymut – But still. But still...

Mr. Smerigan – You've got to decide at some point and I'm not disagreeing with testing that water and talking to those people first. Totally agree with...

Mr. Short – I'm there representative, I have to.

Mr. Smerigan – I think you're 100% correct...

Mr. Daymut – Yes...

Mr. Smerigan – I think that Council has to be prepared to understand that you may have two or three of those people that just say, "hell no!" Then you are going to be faced with that same situation as to whether or not you want to go forward regardless of the fact that you have a couple people who don't want to do it. I can only tell you that, regardless of this that split zoning situation along Prospect is a problem. That was a problem and the one Boston is a problem. I have had more than one conversation with people who want to use their property and can't use it because of the zoning...

Mr. Jamison – Zoning...

Mr. Smerigan – Right.

Mr. Jamison – Can't put a shed. Can't put any kind of structure on it.

Mr. Smerigan – Some of these people you variances all the time. It's a real pain in the rear end. They gripe and moan about it all the time. Eventually, that's going to come back to bit us. I'm telling you.

Mr. Kolick – Well we have it right now, George. You've got people on Marks Road who come in and want to do something with their residential lots and they're in general industrial.

Mr. Smerigan – I get a call every week about houses on Marks Road.

(Multiple conversations)

Mr. Southworth – Okay, going way back in this conversation. You said one of the pros would be that we would save on the Army Corp. /Ohio EPA. What savings would that be?

Mr. Smerigan – Well, what would happen is we...Ken Mikula talked when we talked and looking at how all this would work out. We need to get a permit to make that last stream crossing that we want to make. Rather than us do it, we think it would be better if, since they need to get permits, that they put that request as part of their permit application. Which means they would absorb that, instead of us.

Mr. Short – George, back to that point as well. We would connect that to Boston. We would just have the right to it. We probably won't do it until Boston can have truck traffic?

Mr. Smerigan – No. We won't go all the way to Boston. What would happen...here this might show it a little better. We would, there is a stream here...this is where the road ends now. Here is this stream...

Mr. Short – Correct. Correct...

Mr. Smerigan – This would come down. There is another stream. We don't want to cross this one to get to Boston because it's worthless. Crossing this stream would open this land up for...

Mr. Short – Oh, I understand...

Mr. Smerigan – A development. We only want to do one, not two.

Mr. Short – I understand. Gotcha. Okay...

Mr. Smerigan – Our position would be that when they apply for all this to get the permit...

Mr. Short – To cross there...

Mr. Smerigan – It would be much easier if they added this to their application. If we made that a condition to what they do. We won't have to mess with this. We think it's much more likely to get approval in a shorter period of time if it's part of that bigger picture.

Mr. Short – Understand, okay.

Mr. Dooner – Mike, what was Joe talking about where he said there was people...

Mr. Daymut – There was meetings and I can't remember, 1997 was it...

Mr. Jamison – November of 1997.

Mr. Short – To rezone that?

Mr. Jamison – Rezoning. A proposal at that time to rezone...

Mr. Kolick – The parcel wasn't exactly the same...

Mr. Daymut – No, it was smaller...

(Multiple conversation)

Mr. Kolick – It was the Sprague Farm originally...

Mr. Daymut – It was actually closer to Drake Road.

Mr. Jamison – To rezone...

Mr. Short – In one of the proposals to rezone their lots residential?

Mr. Daymut – Not at that time.

Mr. Smerigan – No, it didn't deal with the rezoning their property...

Mr. Short – Oh, okay.

Mr. Smerigan – It was just taking some of the industrial land and making it residential. What they said at the time was that they thought that residential would then add traffic on Prospect and...

Mr. Jamison – I think Sprague owned...

Mr. Daymut – Then it reared its head when Dave Terry came in at the corner at Prospect and Boston Road because he...

Mr. Smerigan – Same thing there...

Mr. Kolick – He has clusters.

Mr. Daymut – He had clusters and the same thing came up because...the residents I know were fairly active at that time.

Mr. Smerigan – This one never happened. This one did happen.

Mr. Kolick – Well, and there is some positives and negatives that you guys gotta consider as legislative body with this thing. The positives are you're not going to have industrial behind these residential homes on Prospect, number one...

Mr. Schonhut – But they're planning it up against...

Mr. Kolick – Well, I'm going to get to the negatives but the other positive is you're going to keep truck traffic off Prospect, which Prospect is a good road to begin with. The properties that are sitting vacant, obviously, but yes, the negative is, when we have residential up against industrial, we've got problems. We've had it on Westwood, Alameda and Progress backing up there, you're going to have residential back against these properties on Drake. That's a negative. There is no doubt. The last time in 1997, that company that Charlene's...

Mr. Daymut – MCPC.

Mr. Kolick – MCPC, they were something else back then. They really came in and balked because they didn't want to up against residential in their backyard. That's a negative. Same thing coming off of Stelfast and in here. These industrial uses aren't going to like being up against residential. That's some of the negatives that you're going to have with it. It could affect somewhat of the market ability of our land, which is a negative with it and you maybe forcing the zoning down some of the people's throats here. Keep something in mind, a lot of these people have been here a long time. Maybe they figured by now, "hey I've been here 30 years. If this is my retirement, maybe I'm better off being able to sell it for residential and get out of here at this time." I don't know where they're going to be. Joe was right. The more people here who came out against it...whether they're still going to be against...

Mr. Daymut – See the most difficult thing though, for me, is, always has been...and you and I have gone long time, right now, they look out their backyard, even though they have the split zoning. They have nothing...

Mr. Short – Trees and grass.

Mr. Daymut – You can tell them about the industrial land; "I've been here for 35 years or whatever and I've seen nothing in my backyard." Some people will say, "Well I'll have a house in my backyard now and I don't want that." Collectively, to get this 14 people together would be difficult to say the least. To begin with.

Mr. Smerigan – You're not going to get 14 people to agree...neighborhood. That's 10 or 12 of them are interested the other 2 are for it. Who knows? Then you have to make a decision at some point. I understand. I'm not advocating anything one way or other. This is a policy matter. I just want you to be fully aware that you can't really consider the one without considering the other. It doesn't work. That will put us in a box.

Mr. Jamison – Just to wrap it guys. If you remember when this first came in. The additional was about just rezoning it. As we identified it, we saw this was a potential issue for us practically and legally. If you go ahead and rezone this, and leave that. You're rendering it, valueless and that leave us open. So that is where we went through the process of you need to know that going forward as this keeps progressing. You have identified it correctly. At some point, you're going to need the pulse of those individuals on Prospect and that will probably make your decision a little clearer. In terms of how you want to go forward.

Mr. Dooner – Yes and no sense in discussing this any further because we don't have anybody here and obviously Joe is upset about...I'll call Parkview and talk to them and let them know what it is. I've already got two phone calls from Ricky Puzzitiello.

Meeting was adjourned at 4:52 p.m.

11-2-17
Date

Chairman:
Tiffany Mekel, CMC
Assistant Clerk of Council
Kenneth M. Dooner
Chairman