

**THE COMMON COUNCIL OF THE CIVIL CITY OF NEW ALBANY,
INDIANA, HELD A REGULAR COUNCIL MEETING VIA ZOOM.COM ON
MONDAY AUGUST 3, 2020 AT 7:00 P.M.**

MEMBERS PRESENT: Council Members: Mrs. Collier, Mr. Phipps, Mr. McLaughlin, Mr. Turner, Mr. Blair, Mr. Aebersold, Mr. Applegate, Dr. Knable and President Caesar.

ALSO PRESENT: Ms. Stein, Mr. Gibson, Mrs. Moeller and Mrs. Glotzbach.

CALL TO ORDER:

President Caesar called the meeting to order at 7:00 p.m.

MOMENT OF REFLECTION:

Mr. Caesar stated that thoughts and prayers go out to all who have experienced this awful COVID-19 and we really appreciate all of the work that the first responders have done in putting their lives on the line to fight this pandemic.

Dr. Knable stated that if we were present together, we would have taken a moment of silence so tonight he would just like to say that we lost a great public servant in Mr. Keith Henderson who passed away on Friday. He asked that everyone keep his family in their prayers.

Mr. Caesar thanked Dr. Knable for bringing that up and said that Mr. Henderson was a real asset to the community.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

APPROVAL OR CORRECTION OF THE FOLLOWING MINUTES:

Mr. Phipps moved to approve the Regular Meeting Minutes for July 16, 2020, **Mr. Blair** second, all voted in favor.

COMMUNICATIONS – COUNCIL:

Mr. Aebersold stated that he sees some of the Prime trucks and other trucks that deliver items that do not have names on them and they stop in the middle of the street in the drive lane and you have to wait to go around them. He said that he doesn't see why they can't pull up a couple of spaces and pull over. He stated that yesterday he saw one on Main Street that was parked in the wrong direction on the wrong side of the street and would have to drive out into oncoming traffic to get back to right side of the street. He said that was a little too much and he doesn't know where they need to take that and hasn't talked to Police Chief Bailey about it yet, but just wanted to make everyone aware that these trucks are doing things like that.

Mr. Caesar suggested that he make Police Chief Bailey aware of it and suggested to Mr. Applegate that he might make note of that in the traffic study that he is compiling for everyone.

Mr. Blair stated that he wanted to make sure that the contractors we hire to do work are respectful to residents' property because a lot of times he sees people leaving heavy equipment in someone's driveway/yard or they are driving with asphalt on their tires on someone's driveway. He said that this past week he had a complaint that one of the paving contractors drove their truck through some pavement that had just been laid and left black tracks on their driveway from turning around. He stated that to him, there is no excuse and they need to be diligent about respecting people's property and we need to monitor that. He added that it may need to go to board of works.

Mr. Caesar asked him if he was going to take it to the board of works because they would have more control over that.

Mr. Blair stated that he saw that Mr. Nash is on the meeting tonight so maybe he can get that message out there.

Mr. Turner stated that he has a constituent on Woodside Drive that has been emailing Mr. Summers, Mr. Gardner, Mayor Gahan and himself but has only received a response from him. He said that he is concerned about the repaving that is going on there and they have gone through and done patches but have said that there is not going to be any milling done so he is concerned about the process there. He stated that he is just really concerned about why the constituent is not getting a response from anyone on the email chain. He said that he also got a question on when Lafayette and Savannah will be paved because they have been partially milled for some time now so he would like to know when that is going to happen. He stated that the big thing is Slate Run Road because it is pretty rough and he has been talking with the people who are doing the job and to paving engineers at INDOT and sent them some pictures that he took and some from constituents. He said that one guy has been in paving for 40 years and he sent some pictures where they were paving over mud with what an engineer called jello, which is a kinetic sand consistency. He also said that he watched with the city engineer as the paving crew dumped asphalt in that trench. He stated that based on the pictures he sent to INDOT, they said that there seems to be an issue with subgrade and looks to have high moisture so there has to be subgrade treatment on this roadway before they put asphalt on top of it. He said that he asked the city engineer at the time how it looked from Eastwood Avenue to Charlestown Road and he said that it wasn't as bad as what they were witnessing. He stated that he got some of the workers one on one and they told him that they used 100 tons of asphalt from Eastwood to Charlestown Road just to fill holes. He said that he took pictures yesterday when there were no workers there and there have already been several repairs, but you can also see where there is road actually starting to fail again. He stated that he did see that from Garretson on towards the school, they did start putting subgrade down. He said he is just really concerned with what the next step is because the constituent that has been doing this for 40 years said that since it is the entire road, he would do it all over again and that's really concerning to him. He stated that he also has some concerns with the curb and sidewalks because he said that they are 6 inches lower than what they are engineered to be but he doesn't know if that is true or not. He said that with as much planning as we have had on this project, there shouldn't have been any huge surprises and he understands that there is always something. He stated that something else he noticed is that up towards Charlestown Road, half of the yards have sod and half have grass seed and straw so there is not consistency.

Mr. McLaughlin stated that he is going to concur with Mr. Aebersold because he has noticed some cars on Spring Street parked in the wrong direction so they had to be going the wrong way to park and have to drive the wrong way to get out of the spot. He said that he hopes that is something that our enforcement is looking at. He said that there have been some things going around on social media about a possible robbery at Community Park and it turned out to be a stolen purse from an unlocked car with the window down. He also said there was talk of a homeless camp at Community Park and he checked it out and couldn't find anything. He added that if anybody sees such things on social media, it's always good to check with the chief. He stated that since the last meeting, he has been pleased to see that at numerous places he has been the wearing of masks has really kicked in.

Mr. Phipps stated that he too has observed just from going to the grocery and such places that we have almost full compliance on mask wearing so he is very happy about that. He added that some of the smaller businesses such as restaurants and bars are still an issue. He said that he just wanted to keep encouraging those who are doing it to mask up and social distance. He wants encourage those who aren't doing it to get with the program for the health of our community, the health of our businesses and the health of our nation.

Mr. Caesar stated that he has received a few emails from people in the community that still want us to do an ordinance on wearing masks but he has seen everyone complying very well at the few places that he has been.

Mr. Phipps stated that the ordinance is ready to go should we need it.

COMMUNICATIONS – MAYOR:

COMMUNICATIONS – OTHER CITY DEPARTMENTS OR CITY OFFICIALS:

REPORTS – COMMITTEES, BOARDS OR OTHER OFFICIALS AS REQUESTED BY A MAJORITY VOTE OF THE COUNCIL:

TRAFFIC COMMITTEE – Mr. Applegate

Mr. Applegate stated that they did talk with Clark Dietz about what they look at and it was very good information that they will be following up with. He said that they couldn't put together a meeting before this one to actually work on processes, but the call with Clark Dietz was really beneficial and will help them put together a good plan. He added that he will be getting with the group to set a time to meet.

DEVELOP NEW ALBANY – Mr. Applegate

Mr. Applegate stated that small businesses have been working with the CARES Act and the administration on being provided masks and any masks or PPE that is provided is greatly appreciated.

1 SOUTHERN INDIANA – Mr. Applegate

Mr. Applegate stated that he spoke with President Caesar about possibly getting them in for an update on our area and what is going on so he spoke with them about that and it looks like they may come to the next meeting.

APPROVAL OF CF-1 FORMS:

INTRODUCTION OF ORDINANCES:

READING

COMMUNICATIONS PUBLIC: Z-20-01 Amending Zoning Ordinance

Mrs. Glotzbach read into the record emails from Mr. Mike Schlinker and Mrs. Allison Schad Clary who were opposed to Z-20-01. Said emails are on file in the city clerk's office.

Mr. Chris King, Lorch, Naville & Ward, stated that he represents Mr. John Clary who is a homeowner directly south and adjacent to the subject property. He said that earlier he sent some exhibits to Mrs. Glotzbach to distribute to the council and asked if they had a chance to review them.

Mr. Caesar stated that the he thinks everyone has them.

Mr. King stated that they oppose this development and he is going to boil it down into three main areas. He said first from a planning perspective, this particular rezone is a bad idea and secondly if it were to go through, it is probably illegal. He said that thirdly it places an unconscionable burden on these residents for the sole benefit of Mr. Receveur. He stated that the current comprehensive plan was adopted in February, 2017 and a new ordinance was adopted in February of last year and in that ordinance, the zoning was changed on that particular parcel from commercial to low density residential. He said that was February of 2019 and Mr. Receveur bought this property four months later, well after the zoning change had been passed. He stated that shortly after that, he went to the BZA asking for a use variance in October and the BZA denied that they think appropriately for legal and practical grounds. He said now they are back to getting a

rezone and he thinks it is a misuse of the rezone process and will explain why. He explained that the planning and zoning's June 16th meeting on this was at a minimum muddled because it was very difficult to hear and in his view, the recommendations that the plan commission sent to the council didn't accurately reflect what all of the commissioners thought they were voting on at the time. He stated that he sent the clerk the link [Planning Commission Hearing 6.16.20](#) for anyone that would like to hear that meeting and see if they can tell what was decided on rather than just relying on the document that they received from the plan commission staff. He then stated that there have been no physical changes to this area and Mel Smith is still narrow and the intersection there with Grant Line is still hidden. He said that there have been no big developments in the area, no change with how the ground works and no change in the population of the area. He explained that the city paid back in 2016 or 2017 tens of thousands of dollars to have HWC Engineering and Beam, Longest & Neff formulate the comprehensive plan under which we are operating now and it is supposed to guide New Albany's development through 2036. He stated that he recognizes that the comprehensive plan is not the final word on zoning and that it can be deviated from if there is a change in the vision or the direction of the community, but none of those changes are present in this situation. He added that he thinks it is way too early to be scrapping that vision to accommodate one property owner. He said that one of the things that the comprehensive plan calls for in this area is preservation of low density residential and it also calls for mixed uses such as apartment buildings to be located within the I-265 loop and this is well outside of it. He added that it also calls for our infill of the inner city before we start developing things outside of our inner city and this doesn't do that either so this directly contradicts the comprehensive plan. He stated that the council, through ordinance, changed that zone in that particular area from C3/R1 to low density residential and if you change it now, you are going to make a bad traffic situation worse. He also stated that it will set a precedent that the comprehensive plan can be disregarded at will and will also engage in spot zoning which is generally bad practice from a zoning/planning standpoint. He added that in this case, he thinks it is also illegal. He said that he is sure that Mr. Kraft will tell you, and he is right, that spot zoning is not illegal in Indiana because it is not illegal per say, but it can be illegal if it is not done for the public benefit. He explained that if it is done only for the benefit of the owner of that one property and is to the detriment of surrounding properties with no general welfare benefit for the community, it could be illegal. He added that it looks more like a PUDD than a rezone according to the statutes of PUDDs because it meets many conditions of a PUDD and if that is the case, it needs to be a PUDD ordinance and not a rezone. He referred to the aerial view that he sent to the council and stated that the planned buildings are as close as 120 feet to Mr. Clary's pool and the terrain itself makes it particularly invasive. He also stated that the change in elevation between Mel Smith Road and the property line, which his client and the other folks in Royal Oaks share, is at least 10 feet and somewhat more. He explained that those buildings are going to be built on property that is higher than his client's property and the other Royal Oaks properties so their balconies will be looking down into their yards. He stated that they think this rezone is a bad idea, probably illegal and puts an undue burden on his client and the rest of the folks in Royal Oaks.

Ms. Lili Lutgens, 4303 Emerald Way, stated that she has lived at her address for the past 17 years and wanted to talk about the traffic conditions along Grant Line Road because she has been concerned about them for years and this development is just going to make the situation worse. She said that between February 13th and March 11th of this year, the planning commission received 12 comments from residents living near the property at issue and all 12 commented on the dangerous traffic conditions of the area. She said that what was approved by the planning commission doesn't really talk much about traffic. She stated that Grant Line Road from Klerner Lane to Barack Obama Way is very narrow with a narrow shoulder that was originally a rural road and there are no traffic lights to slow down traffic. She said over the last 20 years or so, there has been a growing amount of development in the property that runs from Grant Line Road to Charlestown Road so more traffic is traveling Grant Line Road and the area is getting more and more congested. She added that there really haven't been much in the way of improvements on Grant Line Road. She explained that recently part of the hill was taken out in front of Blackberry Ridge and it improved the sight a little but not a lot and does

nothing to slow the volume of traffic or the speed of traffic. She said that even though that stretch is 40 mph, people routinely exceed that. She added that to make a left hand turn on that stretch of road is just deadly and she had conversations a few years ago with the principal at Grant Line School about the number of accidents he saw in that stretch of road. She stated that the city has allowed a lot of development but failed to proactively maintain the road for the volume and speed of traffic so now we have a deadly situation on our hands and further development is just adding to that. She also stated that there are no plans to upgrade Grant Line Road so she respectfully requested that the city council turn down this proposal and consider a moratorium on further development until Grant Line Road can be upgraded to become a safe road leading to all of this development.

Ms. Michelle James, 4201 Maplewood Drive, stated that her opposition to the proposed zoning change centers around two issues which are drainage and road safety. She said that she has lived in her home for 22 years and her home backs up to the creek which would be the main avenue of drainage from this property and the surrounding properties. She explained that her home sits downstream from this property and during the past 22 years, she has seen erosion of her property due to water flow in this creek. She said she is very concerned that the construction on this site and the addition of parking lots and concrete will create even more drainage issues, which will result in rising water and thus more erosion issues for herself and other homeowners. She stated that she does not believe that the issue of how this development will impact drainage issues into the creek has been properly investigated. She then stated that her second area of concern centers around traffic on Mel Smith Road and Kamer Miller Road. She explained that in her 22 years of living in the area, she has witnessed a ton of development along the Mel Smith Road and Kamer Miller Road corridor and she has watched how traffic on this tiny road has increased exponentially. She added that many people utilize Kamer Miller Road to Mel Smith Road to go to and from the industrial complex. She stated that this road will have more traffic added to it with the apartments currently under construction at Charlestown Crossing and the new housing development under construction on Kamer Miller Road. She explained that several years ago she attended a planning commission meeting regarding a zoning variance for a proposed apartment development on Kamer Miller Road and at that time, the variance was voted down. She stated that one of the planning commission members referred to the Kamer Miller/Mel Smith Road corridor as a glorified cow path that could not sustain the increased flow of traffic and that is true. She said that the road, especially in the area that this development is proposed, is extremely narrow and cannot be widened due to the proximity of homes on Mel Smith Road. She also said that she is concerned about the proposed entrance to the development on Mel Smith Road because when turning onto Mel Smith from Grant Line, there is an immediate hill that creates site issues for traffic. She stated that she does not believe that a traffic study to assess the issues on the entire length of the Mel Smith Road/Kamer Miller Road corridor has been done and she doesn't believe that any zoning change that would create such an increase in traffic should even be considered without this. She stated that she opposes the zoning change for this property and feels that the density of the development will have a huge effect on drainage and traffic, which will negatively impact the homeowners in the surrounding neighborhoods. She urged the council to vote no on the proposed zoning change of this property.

COMMUNICATIOINS PETITIONER: Z-20-01 Amending Zoning Ordinance

Mr. John Kraft, Young, Lind, Endres & Kraft, stated that he is appearing on behalf of the applicant. He said that the considerations that the council has heard this evening are not necessarily the considerations that the council should take into account. He said that there are five elements and this matter is a rezone that is determined by Indiana Code 36-74-673. He explained that the matter was heard on June 16th before the plan commission and contrary to Mr. King's belief, he believes everything was heard and there was a motion duly made and properly seconded so the matter comes to you with a favorable recommendation. He stated that those considerations are the important piece to this because ultimately it was the applicant's burden of proof. He said that primarily dealt with the comprehensive plan, current conditions and characters of current structures and uses, most desirable use, conservation of property values and responsible development and growth. He explained that at the plan commission meeting, Mr. Charlie Mills who is

a very well-respected appraiser, submitted a report that was 20 pages but he also appeared and spoke. He stated that he spoke specifically as it related to the issues pertaining to current conditions, desirable use, specifically conservation of property values and responsible development of growth. He said that it was only after his comments as well as the comments of the applicant that the vote was taken and the vote was a recommendation being favorable. He explained that the property was purchased by Mr. Receveur in June, 2019 as a result of an estate auction and prior to that auction, there was a zoning certification sought in March, 2019 by Mr. Receveur. He stated that the zoning certification certified that the property was, at that point, zoned C3-A neighborhood and commercial. He said that means from the standpoint of the use of the property, had it remained commercial, he believes the neighbors would be coming to you to say that they didn't want a gas station, mini store, etc. there all of which would have been a matter of right. He added that they would be here asking you to allow apartments. He stated that the important piece is that this is not spot zoning and if you look at the definition of spot zoning, this is not. He also stated that the issue of the zoning they were asking for before the change was an issue of spot zoning. He said that more importantly, this is not a planned unit development district, this is what is allowed by Indiana Code of what is known as commitment zoning. He explained that the voluntary commitments that were put before the plan commission to obtain a favorable recommendation deal with many of the comments made this evening. He stated that there would be a dedication of a 15-foot right-of-way along Mel Smith and the intersection of Mel Smith and Grant Line Road for the reconfiguration of that intersection. He said along with that, there would be a deceleration turn lane for developmental access and there would be no access of this property by way of Grant Line Road. He also said that rather than coming in with predevelopment and post development being equal in regards to drainage, Mr. Receveur's LLC has agreed to detain 150% of the water run-off predevelopment and post development. He stated that ultimately much of any drainage issue would actually be addressed and improved by virtue of that. He also stated that there would be building setbacks and landscape buffering that is to meet the requirements of the development plan. He added that is not something that is a PUDD, but in each zoning district there are development standards and there was a requirement that staff review development standards with regards to any type of development in the city. He said that likewise is part of that and the commitment would require water lines, fire hydrants and safety features of the approval of the New Albany Fire Department and any sewer connection would be subject to sewer capacity. He explained that the drainage plan at 150% would require the approval of the city's third-party engineers to make certain that it complies. He stated that the staff report on this specifically addresses all five of those elements to the plan commission. He explained that one of the things that Mr. King addressed was that the comprehensive plan is merely guidelines and those guidelines, in this instance according to Mr. Wood's staff report, specifically addresses that fact that it meets those requirements. He stated that is cited in the goals in Section C-1 and Section C-5 specifically to address the fact that this development meets the comprehensive plan. He then addressed the second fact in 36-7-46-03 and that is primarily current conditions and character primarily addressing the fact of single-family residences as well as specifically areas where there are apartments on Grant Line Road. He said that this would meet those requirements under current conditions and character. He then moved onto most desirable uses and stated that the comprehensive plan notes multi-family residential can be a suitable buffer land use between an arterial street and attached single-family residential. He explained that Grant Line Road is an arterial street and INDOT gave that up to local control and most recently in dealing with traffic, the hill has been cut down at Blackberry Ridge so now there is no longer a sight factor. He then moved on to conservation of property value and stated that Mr. Mills and Mr. Wood addressed that citing that it would have no significant effect on property value. He explained that it is generally a positive effect on property value since it represents a significant investment in that neighborhood and thus validation of the livability and desirability of the neighborhood. He added that comes directly out of the staff report. He stated that the last factor is responsible development and growth. He explained that there was a meeting with neighbors prior to this being put together and there was a statement that these buildings sat way too close to a property line, but they are more than 100 feet off of a property line. He stated that when they looked at the evidence presented to the plan commission, the staff recommendation was specifically the development made by the applicant through the

codification in the ordinance amending that the commitments be binding. He said that the proposal meets criteria for the zone change as outlined, it's not in direct conflict with the comprehensive plan, it is not out of character with the current conditions of the vicinity in which it will be located and it represents the most desirable use of land. He also said it will not substantially adversely affect property values in the vicinity and with the stated commitments, it represents responsible development and growth. He stated that they met those requirements through a public hearing which was held in-person and the result of that was that we received a favorable recommendation. He said that they are here tonight asking for the indulgence of the city council based upon the fact that you have expert staff that specifically addressed these factors and recommended a favorable recommendation. He asked that the council vote in favor of the zone change.

**Z-20-01 An Ordinance Amending the Zoning Ordinance of Phipps
The Civil City of New Albany, IN General Revisions**

Mr. Phipps introduced Z-20-01 and moved to vote on the first and second readings, Mr. Turner second, all voted no with the exception of Mr. Turner and Mr. Blair who voted yes and Dr. Knable who abstained.

Mr. Phipps stated that he is presenting this because he is a member of the plan commission but he was not at that meeting that night because he was not assured that masks would be required and felt that the important vote would come tonight on the city council. He said that in reading the minutes of that meeting, Mr. King's description seems fairly accurate because the way he read the minutes, it was the fourth motion. He explained that the first motion was to approve and didn't carry the vote; the second motion was to send to the city council with no recommendation either way and it didn't carry the vote and there was a third motion that was the same as the second motion and it didn't carry the vote. He said that after Mr. Summers, the City Engineer, suggested eight conditions, the final motion came forward to send it with a favorable recommendation and it passed with a 6-2 vote. He stated that he has some objections to this. He explained that he worked on the zoning committee back in 2017 and they were proud to present this plan for the new zoning code and this is essentially changing this from the lowest density possible to the highest density possible. He stated that the request is for a traditional neighborhood which is what is in his area of town which is Midtown, Uptown, Silver Grove, etc. He added that he doesn't think there is another area on the zoning map that is zoned traditional neighborhood past about the intersection of Beechwood, Daisy Lane and Grant Line so there is a long distance from there out to where this development is occurring. He said that maybe it is not spot zoning per say but the result is that it carves a donut hole in our zoning code. He also said that he thinks this should have been handled through the board of zoning and if the applicant had a good enough reason, the board of zoning could have granted a land use variance. He stated that he thinks when you start changing the zoning code and are literally carving a donut hole in that region, you are setting a precedent for future requests. He also stated that he is even more concerned about how this could create the potential for a domino effect down the road if we make this one exception.

Mr. Blair stated that he sat in those same meetings with Mr. Phipps for 18 months to put together that plan and they were really very particular on design elements and different aspects of the zoning, but they really did not look at specific parcels of land. He said that they left that up to the staff and they took that in broad strokes as to what area is traditional residential, etc. and they never had an input. He added that he doesn't know that he agrees with Mr. Phipps that they looked at specific parcels and they took it on the staff's recommendation so if there needed to be a change in the future, the plan allowed for that.

Mr. Phipps explained that he didn't say that they looked at particular parcels because that is something that you wouldn't do, but he was very pleased that the zones were for the most part, contained and contiguous, unlike they were prior to that time where there was a heck of a lot of what appeared to be spot zoning.

Mr. Blair stated that he personally would have liked to but that was an enormous task and they had to allow the staff to look at various geographical areas and make that determination. He said that he does like the way that they condensed them into fewer zones because we did have a really big mismatch. He added that he thinks in that process there are going to be some mistakes and they would have done things differently if they would have looked at certain parcels individually.

Dr. Knable stated that he also was on the committee for the comprehensive plan and it is interesting that so much of the work that went into that was to kind of streamline things and keep variances from coming before the council. He then asked Mr. Wood what can be built out there by rights at this point in time.

Mr. Wood stated that it is six units per acre and there is roughly three acres so you could do 18 by right.

Dr. Knable asked if that is without any adjustment to the entry way, drainage or anything like that.

Mr. Wood replied no and stated there would be requirements as far as meeting our storm water masterplan, curb cuts from board of public works and the county commissioners and those types of things.

Dr. Knable stated that he would like to know Ms. Stein's and Mr. Gibson's opinion on the legalities of this.

Ms. Stein stated that she is not comfortable giving a flash advisory on that right now because she would like to look at the case law on it.

Dr. Knable asked Mr. Wood if Mr. Gibson rendered an opinion to him on the legalities of this that he would be comfortable sharing.

Mr. Wood stated he didn't. He said that they talked in general terms about it and they didn't believe that it was a spot zone. He also said that they didn't think there was anything that prevented the plan commission from legally hearing it and making a recommendation to the council to proceed to where we are tonight. He stated that he can't speak for Mr. Gibson specifically, but that was the nature of his understanding on this particular matter.

Mr. Turner stated that the bummer about this for all of us on this council is that these people that live in the fringe are not going to vote us in or out of office by our decision. He said that this just happened in his neighborhood and 150% run-off is great because we do have some serious rains. He stated that he personally wouldn't want this and didn't want it and was actually sitting where these folks are 10 months ago, but he also believes that the government shouldn't have a say in what people do with their personal property. He said that this is a big decision and thanked Mr. and Mrs. Clary and Ms. Lutgens for coming tonight.

Mr. Caesar asked Mr. Kraft if a retention pond is in the southeast corner on Exhibit B.

Mr. Kraft stated that it is a detention pond.

Mr. Caesar asked if the pond has good drainage going out from it and if it is going into the creek.

Mr. Kraft stated that he is not the engineer and meeting that 150% would require the examination of the detention by the independent engineers to make sure that everything is being taken away.

Mr. Caesar asked if the landscaping in the back is pine trees specifically or do we know.

Mr. Kraft stated that the buffering would have to meet your development standards of the TR zoning.

Mr. Caesar then asked Mr. Wood if the landscaping would be pine trees or can something else be put there.

Mr. Wood stated that they would look at something like an evergreen type of tree that would give four season privacy to existing neighbors.

Mr. Caesar asked if he is seeing a deceleration lane when you turn off of Grant Line Road to Mel Smith Road that will be put in there.

Mr. Wood stated that is correct and the final plans will be subject to review by both the county engineer and the city engineer.

Mr. Caesar stated that the biggest problem that he sees with the whole thing is traffic. He said that it is an odd angle going into Mel Smith Road off of Grant Line Road and you will be adding basically 100 cars a day on Mel Smith and that will create some problems. He also said that he is surprised that there was not a traffic study done on this project and he is not going to push for one right now but he does have some great concerns.

Mr. Kraft stated that he wanted to note on the drawing that while there currently is an odd angle, that angle will be no longer there by virtue of what is being dedicated by Mr. Receveur's LLC. He said that if you look, it is hand drawn in and would be subject to review by the city engineer but ultimately it reconfigures that. He also said that it dedicates 15 feet in addition to what is there and then goes into the deceleration lane to go into the actual project.

Mr. Applegate asked if this was auctioned wrong with the zoning when it was voted in based on what they auctioned it off as.

Mr. Kraft explained that when the auction took place, the property was then zoned commercial and there was a zoning certification coming from the plan commission advising that it was commercial. He stated that as a result of that, it was bought with the understanding that it was commercial but it actually had a double zone. He said that in the previous zoning ordinance, it was zoned C3-A which was neighborhood commercial and at that time was also suburban residential which was R-1. He explained that under the terms of the zoning ordinance at the time, whichever was the dominant parcel with two districts then it would maintain the major portion as to the higher zone. He stated that in this instance, you had a larger tract that was C3-A and under the terms of the zoning ordinance at the time, it all would have carried the classification as C3-A. He also stated that when a rezoning with the reclassification of all of the properties takes place, there is no actual notice given to property owners that they are being down zoned other than what is published in the paper.

Mr. Applegate asked what the date was of the auction.

Mr. Kraft stated that he didn't have that in front of him but he would be more than happy to get that for him. He added that it was prior to the rezone.

Mr. Applegate stated that the project to do the road and the intersection is not on the books yet so that is something that the city will have to address and put on paper to get done.

Mr. Kraft stated that as he recalls at the plan commission meeting, Mr. Summers wanted it to read in the fashion that it did and he doesn't know when it will take place but the agreement is that the conveyance will be made by Mr. Receveur's LLC to the city for purposes of that taking place.

Mr. Aebersold stated that he sees where they are going to put the turning lane in and widen the street a little bit but there needs to be a traffic light put in. He also stated that

to pass this and say that the intersection is going to be worked on in one or two years is not something that he likes. He said to put that many more cars at this intersection is not good and putting a traffic light in is not on the books now. He also said that fixing that intersection must go along with this project.

Mr. Caesar said that he agrees with Mr. Aebersold 100% and that a traffic light is warranted at that intersection.

INTRODUCTION OF RESOLUTIONS:

COMMUNICATIONS PUBLIC: R-20-10 Bridge tolls during project

COMMUNICATIONS PETITIONER: R-20-10 Bridge tolls during project

R-20-10 Resolution Regarding Bridge Tolls during Sherman Minton Corridor Project Aebersold

Mr. Aebersold introduced R-20-10 and moved to approve, **Mr. Phipps** second, all voted in favor.

Mr. Aebersold stated that he talked about this at the last meeting and so they put it together. He asked everyone if it is pretty cut and dry to what they want to do and if anyone had any comments.

Mr. Caesar stated that he thinks Mr. Aebersold did a wonderful job with this and he is ready to move forward on it.

Mr. Aebersold stated that he did speak with Mayor Gahan about this and he is excited about it and said he would sign it right away. He also stated that he has a list of about nine different representatives that he is going to send it to.

Mr. Blair stated that he appreciates Mr. Aebersold putting this together and he thinks in theory it is a great idea, but he thinks he is going to run into troubles when he starts looking into the financing of it, the dependability of tolls, bond issues and so forth. He also stated that he does think it is the right step and the right thing for the council to support.

Mr. Aebersold stated that he didn't want to entertain the idea of doing half of the tolls or lowering the tolls for two years so he just threw it in at the top and will see what comes back.

Mr. McLaughlin stated if they don't want to adjust the tolls, perhaps they could do something like a state income tax deduction.

BOARD APPOINTMENTS:

Mr. Phipps stated that as he pointed out earlier, he did not attend the last plan commission meeting and actually did not attend the last two because they are not requiring masks. He said that he doesn't want the council to feel that he is neglecting his duties so if it is the will of President Caesar or the council that someone else step in for him on the plan commission, he is totally okay with that. He explained that he does enjoy being on the plan commission and he just wishes that they would have Zoom meetings like we are doing but until they do that or this thing is over, he is not going to feel comfortable going into that venue without the assurance that there will be masks.

Mr. Caesar stated that he has no desire to remove Mr. Phipps from the plan commission and we will work this like we have everything else.

Mr. Blair stated that he appreciates Mr. Phipps taking a stance and demonstrating the right behaviors.

Mr. Turner stated that he is impressed that Mr. Phipps kept up and read the minutes and knew exactly what was going on because that is really where it is important.

COMMUNICATIONS – PUBLIC (NON-AGENDA ITEMS):

ADJOURN:

There being no further business before the board, the meeting adjourned at 8:32 p.m.

Bob Caesar, President

Vicki Glotzbach, City Clerk