

Planning Commission Caucus - 7:05 P.M. - Wednesday, July 16, 2008.

Present: Mayor Robert A. Stefanik, Chairman Tony Sandora, Victor Bull, Thomas J. Kelly, Law Director, Vice Chairman/Council Representative to Planning Commission Don Willey, Mike McCarthy, Rito Alvarez, Building Commissioner, Mark Schmitzer, P.E., City Engineer, Council Ward Five Larry Antoskiewicz, Nick Cinquepalmi, Neil Price, Mike Fabish, Students from North Royalton High School and Brenda L. Fashempour, Secretary.

Public Hearing -

Call to order.

Roll call.

Opening Ceremony - Pledge of Allegiance.

Ordinance No. 08-111 - Chapter 1282 - Public Hearing Notice, Explanation of Ordinance, comments of Board, comments from audience, refer to regular order of business.

Ordinance No. 08-112 - Chapter 1286 - Public Hearing Notice, Explanation of Ordinance, comments of Board, comments from audience, refer to regular order of business.

Motion to adjourn Public Hearing.

Regular Meeting

Call to order.

Roll call.

Approval of minutes - June 18, 2008. Motion to approve the minutes of June 18th, 2008, second, roll call.

Old Business

Planning Commission Agenda Reviewed.

Timberlane Estates Phase V - tabled. No action.

Ordinance No. 07-73 - tabled. No action.

Woodcroft Glen, Ext of Woodcroft Trace, Final Plat 2, tabled. No action.

New Business

Ordinance No. 08-111 - Chapter 1282 - comments from board, comments from audience, motion to recommend to Council adoption, second, roll call.

Ordinance No. 08-112 - Chapter 1286 - comments from board, comments from audience, motion to amend, second, roll call. Motion to recommend to Council adoption as amended, second, roll call.

Site Plan Approval

Sunoco Food Mart - Presentation. Comments from board, audience. Motion to approve, second, roll call.

Lot Split/Consolidation

Zillich Interiors, Inc. - Huntington Park Subdivision SL 17. Lot Split/Consolidation. Presentation, discussion, comments from board, audience. Motion to approve, second, roll call.

Subdivision Approval

Zillich Interiors, Inc. - Huntington Park Subdivision No. 4 - Revised Preliminary Plan. Presentation, discussion, comments from board, audience. Motion to approve, second, roll call.

Utility Plan Approval

BJAAM Environmental, Inc. - Applicant decided to withdrawn request after discussion with City Engineer about monitoring wells in right of way.

Motion to remove from agenda, second, roll call.

Motion to add Carlo Chiuchiarelli, proposed extension of 384' of sanitary sewer on State south of Wiltshire to service a new home, second, roll call. Presentation, comments from board, comments from audience, motion to approve, second, roll call.

Miscellaneous

All items on Agenda taken care of, cancel July 23rd, 2008 Planning Commission Meeting.

General discussion took place on Ordinance 08-112 regarding the nonconforming and lots of record from long time ago to the lots that were changed as of the zoning changes recommended by the Master Plan in 2004. R1-B setbacks were discussed as the lots have changed to R1-A status. Law Director Kelly stated that the Ordinance may be amended to

include the November 2004 date for clarification. The previous Code would have to be available to check what the setbacks were prior. Mr. Kelly will make comments in the regular portion of the meeting.

Adjournment

Planning Commission Caucus adjourned at 7:25 P.M.

Chairman Sandora stated Good Evening Ladies and Gentlemen, welcome to the North Royalton Planning Commission Meeting, the Public Hearing portion for July 16th, 2008.

The **Planning Commission** of the **City of North Royalton** met in the North Royalton Council Chambers, 13834 Ridge Road on **Wednesday, July 16th 2008 to conduct a Public Hearing. The Public Hearing was called to order by Chairman Tony Sandora at 7:30 P.M.**

Chairman Sandora stated Ms. Fashempour please call the roll.

Present: Mayor Robert A. Stefanik, Don Willey, Council Representative to Planning Commission/Vice Chairman, Tony Sandora, Chairman, Victor Bull, Michael McCarthy, Rito Alvarez, Building Commissioner, Thomas A. Kelly, Law Director, Mark Schmitzer, P.E., City Engineer and Brenda L. Fashempour, Secretary.

Opening Ceremony - Pledge of Allegiance. Chairman Sandora stated please stand for the Opening Ceremony - Pledge of Allegiance. Pledge of Allegiance recited.

Public Hearing - Ordinances

Ordinance No. 08-111 - An Ordinance amending the Codified Ordinances of the City of North Royalton, Part 12 Planning and Zoning Code, by repealing the existing Chapter 1282 Off Street Parking and Loading, and replacing with a new Chapter 1282 Off Street Parking and Loading, and Declaring an Emergency.

Secretary read the Public Hearing Notice. Public Hearing Notice posted at the City's Public Posting Places.

Chairman Sandora stated Thank You Ms. Fashempour.

Chairman Sandora stated someone here would like to present 08-111.

Mr. Willey stated Chairman.

Chairman Sandora stated Mr. Willey.

Mr. Willey stated the Building and Building Codes Committee reviewed for at long length the a, a building, the parking requirements for various, various parking requirements for various office buildings, retail, commercial, doctor's offices and so forth and what this was meant to do was to offer applicants some scenarios they, they might apply and to, to clarify, to clarify the building codes in, in terms of parking alternatives such as handicap, handicap requirements a, a doctors office for instance needs less a parking spaces then, then what a retail, what a retail or a church and so that was the, the idea of a you know trying to come up with a reasonable standard so that as builders and applicants for new buildings are, are converted, buildings are, converted

businesses from one to the other would have some guidelines and also for a better clarification from are a, for our Building Commissioners. Mr. Willey stated so that's, that's basically the intent of this legislation 08-111.

Chairman Sandora stated Thank You Mr. Willey, Mr. Alvarez do you have anything you wish to say at this time.

Mr. Alvarez stated other than he would like Mr. Chairman to confer with Mr. Willey, a, we have updated quite a bit in here obviously as presented you don't know what the revisions are that we did but they were significant and he thinks in the long run it's going to benefit developers and the citizens of North Royalton,

Chairman Sandora stated Thank You Mr. Alvarez, Mr. Schmitzer do you have anything you want to say on this.

Mr. Schmitzer stated no, he has no comment.

Chairman Sandora stated Thank You, anybody else on the Board have anything they want to say on this.

Chairman Sandora stated anybody in the audience wish to speak on Ordinance No. 08-111.

Chairman Sandora stated nobody, hearing none, he makes a motion to move this to the Regular Order of Business.

Mayor Stefanik stated second.

Chairman Sandora stated moved and seconded, Ms. Fashempour please call the roll.

Roll call: Yeas: Five - Willey, Bull, McCarthy, Mayor Stefanik, Chairman Sandora. Nays: None. Motion carried.

Ordinance No. 08-112 - An Ordinance amending the Codified Ordinances of the City of North Royalton, Part 12 Planning and Zoning Code, Chapter 1286 Nonconforming Uses, Section 1286.06 Extension Prohibited, and Declaring an Emergency.

Secretary read the Public Hearing Notice. Public Hearing Notice posted at the City's Public Posting Places.

Chairman Sandora stated Thank You Ms. Fashempour, anybody here on 08-112.

Mr. Willey stated Mr. Chairman.

Chairman Sandora stated Mr. Willey.

Mr. Willey stated the a, a as one of the sponsors of this Ordinance 08-112, the intention of this was to, to maybe clarify or rectify a situation of a November of 2004 in which the residents voted for a Master Plan and then included in that was a rezoning of various sections of a the City at that time it did away with what we called R1B zoning which was a 80' by 200' or greater but lesser than the R1A lot of 100 wide by 200, 200, 250'. Mr. Willey stated so the a issue came up was

that there were a number, quite a number of R1B lots that suddenly became nonconforming and a in, in which case if someone wanted to build on this vacant lot they would have to go to the Board of Zoning Appeals and request a zoning so it was the intention of the, or the objective of this is to eliminate that step however a they a still have to conform to the Building Codes that were in effect under R1B Zoning and that is 80' by 200' and then there is a difference in the off, offsets, the rear setbacks and side setbacks so that, that was the intention of this zoning and as we talked in caucus item c as will be amended in the regular section of the, of our meeting clarifies, clarifies that issue, that's, Thank You Mr. Chairman.

Chairman Sandora stated Thank You Mr. Willey.

Chairman Sandora stated Mr. Alvarez do you have anything on this.

Mr. Alvarez stated a no, no Mr. Chairman.

Chairman Sandora stated Mr. Schmitzer do you have anything.

Mr. Schmitzer stated not at this time.

Chairman Sandora stated anybody else on the Board have anything they want to say on this.

Chairman Sandora stated after numerous discussions in caucus on this piece of legislation it, it shall be amended tonight and will reflect as such.

Chairman Sandora stated is there anybody in the audience that wishes to speak on this, no one.

Chairman Sandora stated hearing no one, make a motion to move this to the regular order of business 08-112.

Mr. Willey stated second.

Chairman Sandora stated moved and seconded, Ms. Fashempour please call the roll.

Roll call: Yeas: Five - Bull, Willey, Mayor Stefanik, McCarthy, Chairman Sandora. Nays: None. Motion carried.

Adjournment

Chairman Sandora stated can he have a motion to adjourn the Public Hearing at this time.

So moved Mr. Willey.

Second Mr. Bull.

Chairman Sandora stated moved and second to adjourn the Public Hearing, Ms. Fashempour please call the roll.

Roll call: Yeas: Five - McCarthy, Mayor Stefanik, Willey, Bull, Chairman Sandora. Nays: None. Motion carried.

Planning Commission Public Hearing adjourned at 7:43 P.M.

The **Planning Commission** of the **City of North Royalton** met in the North Royalton Council Chambers, 13834 Ridge on **Wednesday, July 16th, 2008** in **regular session**. The meeting was called to order by **Chairman Tony Sandora** at **7:43 P.M.**

Present: Mayor Robert A. Stefanik, Don Willey, Council Representative to Planning Commission/Vice Chairman, Tony Sandora, Chairman, Victor Bull, Michael McCarthy, Rito Alvarez, Building Commissioner, Thomas A. Kelly, Law Director, Mark Schmitzer, P.E., City Engineer and Brenda L. Fashempour, Secretary.

Approval of minutes: June 18th, 2008. Ms. Fashempour stated under **Approval of Minutes, June 18th, 2008** if you so choose. So moved Mr. Bull. Second Mr. Willey. Chairman Sandora stated it's been moved and second, the approval of minutes for June 18th, Ms. Fashempour please call the roll. Roll call: Yeas: Five - Willey, Bull, McCarthy, Mayor Stefanik, Chairman Sandora. Nays: None. Motion carried.

Chairman Sandora stated minutes are approved.

Old Business

Harry Hayes, Timberlane Farms, **Timberlane Estates Phase V**. Revised Sketch Plan Approval. Tabled.

Ms. Fashempour stated under Old Business, Number One Timberlane Estates Phase V, it is tabled, no action.

Ordinance No. 07-73 - An Ordinance accepting the Dedication of 1,621 feet of Mahican Way, 649 feet of Shawnee Circle, and 822 feet of Chippewa Path in the proposed Indian Trails Subdivision, Phase 1 from Woodhill Properties, Inc., and Declaring An Emergency. Tabled.

Ms. Fashempour stated Ordinance No. 07-73, tabled, no action.

Woodcroft Glen, Royalton Road, GB and RMD Zoning. Woodcroft Glen Phase 2 Final Plat - Approval. Tabled.

Ms. Fashempour stated Woodcroft Glen, tabled, no action.

New Business

Ordinances

Ordinance No. 08-111 - An Ordinance amending the Codified Ordinances of the City of North Royalton, Part 12 Planning and Zoning Code, by repealing the existing Chapter 1282 Off Street Parking and Loading, and replacing with a new Chapter 1282 Off Street Parking and Loading, and Declaring an Emergency.

Mr. Willey stated motion to remove from the table, refer to Regular Order of Business, or has that already been done.

Chairman Sandora stated it's been moved.

Mr. Bull stated recommend to Council.

Mr. Willey stated oh sorry, oh, Mr. Chairman he recommends that we adopt 08-111 and a for approval by City Council.

Chairman Sandora stated second.

Chairman Sandora stated been moved and second to refer 08-111 to Council for adoption, now Ms. Fashempour please call the roll.

Roll call: Yeas: Five - Willey, Bull, McCarthy, Mayor Stefanik, Chairman Sandora. Nays: None. Motion carried.

Ordinance No. 08-112 - An Ordinance amending the Codified Ordinances of the City of North Royalton, Part 12 Planning and Zoning Code, Chapter 1286 Nonconforming Uses, Section 1286.06 Extension Prohibited, and Declaring an Emergency.

Chairman Sandora stated Thank You Ms. Fashempour are there amendments to 08-112.

Mr. Kelly stated Mr. Chairman.

Chairman Sandora stated Mr. Kelly.

Mr. Kelly stated if it please you Mr. Chairman and the Commission he would recommend to the Commission the following changes in the text in line two the word new is to be stricken, it will subsequently then read provided that the construction, in lines three and four the stricken material is to be un-stricken and to read minimum lot and/or minimum lot setbacks, in line four the word new again to be stricken so that it reads as long as such construction etc., subsection b is as is, subsection c to be modified or to be changed as follows; the, the word conforms with an s in subsection c in the first line is to be modified to read conformed as in ed past tense to the lot size requirements of the Zoning Code here add as it existed on November 1, 2004 those changes Mr. Chairman, we think, I think will suffice to meet the intent of, of the Council as expressed by Mr. Willey in caucus.

Chairman Sandora stated Thank You Mr. Kelly.

Chairman Sandora stated Mr. Alvarez do you have anything, any problems with that.

Mr. Alvarez stated Mr. Chairman he concurs wit the Law Director, Sir.

Chairman Sandora stated Thank You Mr. Alvarez.

Chairman Sandora stated Engineering Department, Mr. Schmitzer do you have anything.

Mr. Schmitzer stated nothing to add at this time.

Chairman Sandora stated anybody else on the Board wish to have any comments on this, none.

Chairman Sandora stated at this time he will make a motion to refer to Council Ordinance 08-112 for consideration of adoption with the stated amendments.

Ms. Fashempour stated we need to do the amendments first.

Chairman Sandora stated he is sorry.

Ms. Fashempour stated she needs a motion to amend.

Chairman Sandora stated motion to amend as read by the Law Director.

Ms. Fashempour stated right.

Mr. Willey stated second.

Chairman Sandora stated moved and seconded for the amendments, Ms. Fashempour please call the roll. Roll call: Yeas: Five - Bull, McCarthy, Mayor Stefanik, Willey, Chairman Sandora. Nays: None. Motion carried.

Ms. Fashempour stated now a motion.

Chairman Sandora stated he will make a motion to refer to Council as amended for adoption of 08-112.

Mr. Bull stated second.

Chairman Sandora stated it's been moved and seconded, Ms. Fashempour please call the roll.

Roll call: Yeas: Five - McCarthy, Mayor Stefanik, Willey, Bull, Chairman Sandora. Nays: None. Motion carried.

Chairman Sandora stated it's approved.

Site Plan Approval

Sunoco Food Mart, 13946 State Road, TCD-2 Zoning. Site Plan Approval.

Ms. Fashempour asked if the Applicant was here.

Applicant stated yes.

Ms. Fashempour stated do you want to step forward.

Chairman Sandora stated step forward please to the microphone, state your name, your address and what you would like to do.

Good Evening, Scott Kollab he is the owner of the site.

Chairman Sandora stated and your address please.

Mr. Kollab stated 13946 Royalton Road, he is sorry State Road in North Royalton.

Chairman Sandora stated this gentleman with you going to speak also.

Mr. Kollab stated that's his Contractor.

I am the General Contractor David Musgrave, to answer any questions.

Chairman Sandora stated and your address.

Mr. Musgrave stated if there are any.

Chairman Sandora stated and your address Sir.

Mr. Musgrave stated the address is 13946 State Road.

Chairman Sandora stated how about your address.

Mr. Musgrave stated his physical address of his business.

Chairman Sandora stated your business.

Mr. Musgrave stated 8398 Riverside Drive, Novelty, Ohio.

Chairman Sandora stated Thank You.

Mr. Musgrave stated Thank You.

Chairman Sandora stated and what would like to do there.

Mr. Kollab stated we are planning to expand a convenient food mart store, basically remove the bay work, the mechanic shop that was a prior to a year ago and a facilitate a full line of convenient food mart store including might be some dairy product and deli and beer, wine included there.

Chairman Sandora stated okay.

Chairman Sandora stated is this your property now Sir, is it still Sunoco, are you leasing it.

Mr. Kollab stated no, we own, yeah we bought this recently from Sunoco.

Chairman Sandora stated you bought the whole thing.

Mr. Kollab stated yeah, yes, Sunoco no longer owns that property.

Chairman Sandora stated okay, Thank You.

Chairman Sandora stated let's go with Mr. Schmitzer.

Mr. Schmitzer stated ah yes, as he stated in his report to the Planning Commission really the only items that the Engineering Department has is regarding the number of curb cuts at the property. Mr. Schmitzer stated they are currently four curb cuts, two on State Road and two on Route 82 with the proposed, what he is looking at this as a re-development we would based on the standards that are set today we look at ODOT for State Route 82 and, and for State Road for the recommendations they would not allow the curb cuts closest to the intersection if this were a new site plan coming in so based on that information and, and the safety of, of patrons visiting there we would recommend the elimination of the two curb cuts closest to the intersection of the property and also dressing up or, or making the other two curb cuts conform a little bit more with the proposed site plan, minimum 18' up to 24' depending on what type of traffic you had coming in one or two ways.

Mr. Kollab stated Thank You, in response to that he had an experience with another gas station in North Royalton, State and Wallings that he own, had been done with construction about a year and half ago and a he did speak with Brenda today and he knew about this issue. Mr. Kollab stated and he went to the record of his business, he has been there for ten years and we a, we did because that was proposed to us at State and Wallings and we definitely never, you know rejected the idea because we, we feel communities safety come first and we have he thinks probably had some accident in that intersection and we didn't mind at all but let me be honest with you that was performed, an issue that we looked at our volume numbers and from 2005 to up to 2008 our numbers came down at least between 6 to 15% between volume on gasoline and food store, similarly the store is about, is going to be the same thing of what we are on Route 82 and State. Mr. Kollab stated we feel, we are there to grow and prosper and make business rather than the issue and then the other side of this we have many customers that used to come to our stores particularly in a senior citizen situation where they wanted to come in and he knows one of them at least that had expressed, you know I don't come to your station because I panic when I turn in, there are so many people in and out and one entrance just makes me panic I rather go down the street and, and he is able, and that's really a big issue for our senior citizens in and out and safely and a very quite situation. Mr. Kollab stated he doesn't have any problem if that's an issue what you feel as an Engineering Department that this should be done and should be but he looks at the, the outcome of it, the effect, the negative side affect of our business we are planning to, to bring about a state of the art looking building, we are working hard to make it look right, we feel that intersection shouldn't be closed, should be open for business, he owns six other gas stations in the City of Cleveland, between Euclid, North Royalton and upper west side of Cleveland, we have done a great job in seeking a convenient store. Mr. Kollab stated and let him be honest with you when he buys a business he walks in and determines his decision, how is it easy in and out in a gas station, which direction, what side of the street that would help his customers to get in and out, we have a station we bought from Sunoco recently about a few months on Triskett we do have a problem, we do have two entrances but close to the intersection will, you know, at the same scenario but we would like to keep them it is just because the issue of in and out easy access for our customers, he would like this issue to stay as is and willing to deal with it down the road if this, you think is going to affect the traffic or happen to be any history of accidents on that corner, in mind that this area has been expanded what two years, he remembers that the street had been expanded so the intersection is wide enough for turning again he is not the specialist here, he is the guy whose appealing to you to keep the entrances on the, on those two entrances as is so with the industry that he is in squeezing us so much, he would like to continue and prosper the you all see the oil industry we are not there to make so much money at least just to keep their operation going, he bought this property about a year ago and we kept pushing it until we just a finalize the deal, Chairman, Members he appeals to you that just to keep the, the station as is at least for now for future reference if something that were happen.

Mr. Willey stated Mr. Chairman, or he is sorry.

Chairman Sandora stated Mr. Willey go ahead.

Mr. Willey stated a, you know, he kind of agrees with the Applicant from the standpoint that intersection was just widen and, and that whole issue was an issue at the time, by the way he goes to the, the State, State and Wallings probably once a day at least and he is a senior citizen and he has no problem getting in and out so a but a, he kind of agrees with the Applicant from that particular scenario because of the amount of the traffic at that intersection of 82 and 82 and State Road. Mr. Willey stated he, he thinks it would be easier for customers ingress and egress especially during the rush hour traffic.

Chairman Sandora stated Mr. Willey.

Mr. Willey stated yes Sir.

Chairman Sandora stated he disagrees with Mr. Willey, he, he thinks that that, now is the time to do that, if you are going to remodel that place now is the time to take it up and tear it out and do it and do it right so there is better landscaping on that corner there, he knows there has been accidents on that corner there, you know, it very hard and you have the scenario every once and a while where somebody makes a right hand turn or comes in through that intersection and wants to make a left hand turn into that first driveway there on the corner there and it is pretty hazardous there or you get people that are going through the traffic light going east or going west and then all of the sudden they stop quick to make a right hand turn into that first driveway there a when that first was open there they took out the fire hydrant there because it was to close to that apron over there, a he believes that those those two aprons should come out and, and the existing aprons that are there should be widen to accommodate the traffic, that's his opinion, he is only one person on here.

Chairman Sandora stated Mr. Alvarez do you have anything.

Mr. Alvarez stated Mr. Chairman, he has a number of issues regarding the site plan, bare in mind that you are in a TCD2 Zoning District. Mr. Alvarez stated and if you had a copy, your probably received a copy of his comments. Mr. Alvarez stated but basically because you are in a TCD2 your parking has to be at least 20' away from the right of way so at least one parking space on Royalton Road and one parking space on State is to close to the right of way, we have remedies for this thing so don't get to bent out of shape here. Mr. Alvarez stated with that regard as well in our off street parking regulations, for this type of business we we consider 10 parking spaces for 1000 square foot of building area and yet doing the simple math you need about 20 parking spaces, right now you have 17 and let's assume he eliminates the two there now you are down to 15, what he would recommend to the Board to consider that a a lot of times people will come here just to get gasoline and they will utilize just to get the gas at the pump station and consider that as a parking space as well so in the wash you will probably gain another five or six people who are at the island there so, in general if you eliminated two parking spaces, considering the addition if the board wishes with the people at the islands you probably should have more then enough to meet our requirements for that. Mr. Alvarez stated that was his issue with the parking in and the second issue with the parking is the handicap accessibility, now that particular comment comes straight out of the Building Code, it really,

what it states is that you should have the shortest route accessible to the store entrance, where you show the van accessible parking is too far from your front door and since this is all new there is no reason why you can't provide a handicap parking space that close as possible to the front entrance and that's easily done as well as putting in the ramps so that's a very simple remedy. Mr. Alvarez stated the fourth thing he thinks is the trash storage container, in our Code we require a 6' high masonry wall and on the site it just says existing trash bin, so according to TCD District they want a 6' he believes the one that's there now is probably 4' at best he didn't measure it at all but there is some kind of a brick, that can be easily if you choose to make it at least 6' high and provide some type of landscaping and that's in that section as well. Mr. Alvarez stated probably the fifth or sixth thing he has if you, when you decide to get any signage to submit those sign plans to the Building Department to be reviewed for our sign ordinances and so forth and a we can help you with that as well. Mr. Alvarez stated and a probably the last thing he thinks is the loading and unloading when you have your, your trucks come in for supply, where, how are they, do they come during the day how does this work with all the parking that you are going to have for all your customers are they going to interfere with the, with your store business as people come in and out, do you have any plans to a, for your delivery trucks.

Mr. Kollab stated well most of the deliveries we always say all of our stores before 1 o'clock in the afternoon nothing after 1 o'clock where we think that rush hour traffic, on the west side of the building that's where we have the opening right into the back of the building as far as, as far as petroleum, we can not determine what time they deliver, it all depends on what the window is when you wire the gas so we prefer where it's an early morning delivery.

Mr. Alvarez stated well the gas trucks, he is not, he realizes that they come at any time.

Mr. Kollab stated yeah.

Mr. Alvarez stated but or the supplies.

Mr. Kollab stated yeah, but for the deliveries we always ask all the vendors to deliver prior before 1 o'clock in the afternoon so that way they go on side, the west side of the building.

Mr. Alvarez stated okay and then they just.

Mr. Kollab stated then they just drive into that side, that is why we have open the one side into the back room storage.

Chairman Sandora stated okay and then.

Mr. Alvarez stated can that be noted on the site plan you know where the loading area for your trucks will come in so at least we have idea of what and the whole idea is again is not to interfere with the business there and possibly even cause an accident somehow.

Mr. Musgrave stated a question on the parking is it, the square footage is it of the whole building or just the customer area that you are looking at.

Mr. Alvarez stated the whole building, the Code really is very general in that when it speaks to the building area.

Mr. Musgrave stated even though it isn't like 1200 square feet of customer, actual customer.

Mr. Alvarez stated no it's footprint.

Chairman Sandora stated Thank You Mr. Alvarez, are you finish Mr. Alvarez.

Mr. Alvarez stated yes Sir.

Chairman Sandora stated Thank You Mr. Alvarez, Mr. Kelly you had.

Mr. Kelly stated sorry Mr. Chairman, Mr. Chairman.

Chairman Sandora stated okay.

Mr. Kelly stated he had a moment to consult with Mr. Schmitzer the Engineer and there is at least a possibly that there might be some effort made to, to modify the a, a recommendation of the Engineer with regard to those curb cuts not to, not to necessarily keep the two closest ones to the, to the intersection as he understood but, but to, but to narrow them solely to allow the ingress of vehicles and not egress, the concern that the Engineer is expressing here is that you know when people are trying to leave the premises if they leave to close to the intersection that's where we get the, the traffic issue is that a fair statement Mark.

Mr. Schmitzer stated yes that's correct.

Mr. Kelly stated whereas in order to allow ingress at, at a point closer to the intersection than might otherwise be available that wouldn't impede the flow of traffic in a way that he would fine a, a difficult or offensive and it would also permit the delivery trucks, the fuel trucks ingress in a way that might otherwise be difficult for them so that, that was just something that he wanted to share with you and, and ask Mark if he wanted to elaborate Mr. Chairman that would be your, your prerogative.

Chairman Sandora stated yes, would, would you because he is, you want to, you want to cut, cut them down now.

Mr. Schmitzer stated yeah, in, in talking with Mr. Kelly here, his main concern overall was traffic enter, not so much entering but exiting at the intersection particularly if someone were exiting on the State Road entrance closest to the intersection trying to cut across going west bound across 82 without looking, you know people are going to try that, he means, you know, he means we can come up with every remedy that we want, people are going to do what they want to do but if we can help eliminate that possibility and basically make those two curb cuts there instead of full access towards that intersection an ingress there.

Mr. Kelly stated ingress only.

Mr. Schmitzer stated ingress only, that will allow, he understands that tanker trucks have to come in and fuel, coming in from the full access further extents of the property it's going to be hard for them to maneuver around cars that may be pulling in, pulling out or parked at that point and it may not actually be possible whereas, the, the, the asphalt area opens up on the southeast corner there where the tanker trucks are going fuel up, where the tanks are so if we allow them ingress off of 82 and at State at that intersection there, they can pull in, be out of the way and not impede customers going into your store so he would be willing to work with you on, on that matter.

Chairman Sandora stated how are you, how are you going to, how are you going to prevent people from, from you going, you are saying they can use that as an ingress, how are you going to prevent the people from exiting from there.

Mr. Schmitzer stated the, the entrances will actually will be curbed in a manner such that if you were, if you were down at the entrance closest to the intersection on the 82 corner, it would be curbed in a way that you would actually be going against traffic, it would be very obvious the, the they are curbed in to the site so that if you were trying to leave you would go, I am facing traffic the wrong way and you would sign it as well that says Do Not Enter, so, those multiple ways are acceptable means.

Chairman Sandora stated and you don't think that, that is going to be more confusing then just eliminating them and widen the two other aprons.

Mr. Schmitzer stated it would be more confusing then that option yes he does agree but in light of of what the applicant is trying to do here and, and trying to you know get this corner built and, and progress moving he means its.

Chairman Sandora stated well he understands that the Applicant wants to get the progress moving and he wants to get in there and start his business, he understands that, but he is looking at you know a hazardous point there, he means no matter how you look this it is a hazardous corner in his opinion, he is only one person here, that's up to them whatever they are going to do, he means to him that's a more hazardous situation over there, that's his opinion.

Mr. McCarthy stated Mr. Chairman.

Chairman Sandora stated Mr. McCarthy.

Mr. McCarthy stated he would like to echo your opinion, he agrees with the initial recommendation of the Engineer that those driveways be closed, he does believe that those tanker trucks will get the circulation access that they need by widening the other two drives that have been proposed and he would also like to add as a State Route he would ask the Engineer or anyone else if the State DOT has a offered an opinion on these drive locations.

Mr. Schmitzer stated no they have not offered an opinion, we have not requested anything from the State for any kind of recommendation on this.

Mr. McCarthy stated is that something, is that something that they would be, be a providing a permit on.

Mr. Schmitzer stated he believes that a, the way the Code is written that we do have the authority here at the City to authorize curb cuts along the State Route, we always look to the DOT for their recommendations, take that into consideration but ultimately he believes it is the City's decision on the ultimate outcome.

Chairman Sandora stated Thank You Mr. McCarthy, anybody else on the Board have anything.

Mr. Willey stated Mr. Chairman.

Mayor Stefanik stated Mr. Chairman.

Mr. Willey stated go ahead Mayor.

Chairman Sandora stated Mayor.

Mayor Stefanik stated yeah, he would like to agree with our City Engineer to revise it to put these special curb cuts in to offer that ingress and egress that was there before, it's going to be a gas station, it's not going to be anything else, it was a gas station before, all our intersections are very busy intersections and most of the accidents in the City do happen at the intersection that's just the nature of the beast he thinks with this way with proper signage he thinks they can make it work and our goal is here is to you know get these businesses opened up that have been closed a long time, he gets many, many calls about this corner about the abandon buildings and to put all restrictions although it might be minor in some peoples eyes when it affects the bottom line a little bit, he is sympathetic to that and we need to keep these businesses up and running and give them any hand we can give them to make sure they stay open for the long haul.

Chairman Sandora stated Thank You Mayor, anybody else on the Board have anything.

Mr. Willey stated Mr. Chairman on another subject, is this going to be called, are you selling Sunoco gas there.

Mr. Kollab stated yes we are.

Mr. Willey stated and the name of the place across the front of the building is going to be called Sunoco Food Mart.

Mr. Kollab stated Sunoco Food Mart.

Mr. Willey stated Sunoco Food Mart.

Mr. Kollab stated yeah.

Mr. Willey stated okay.

Mr. Kollab stated we have a twenty year contract with them.

Mr. McCarthy stated Mr. Chair.

Mr. Willey stated yeah the other thing after explanation of the City Engineer and so forth, he, he guess that would be a viable solution for controlling traffic in and out. Mr. Willey stated Thank You Mr. Chairman.

Chairman Sandora stated Thank You Mr. Willey, anybody else on the Board.

Mr. McCarthy stated yeah Mr. Chairman maybe a point of further clarification on the proposed scenario in allowing the driveways with the restricted access, would it allow for left turns exiting out of those two driveways, would it work without allowing that, would, would you accomplish the ingress/egress you wanted mainly for you're your, sounds like for your trucks coming in, would the restrictions you'd be placing on those two drives be signage as, as well as limiting it to a right turn out or would you, his, his concern is.

Chairman Sandora stated well he, you know, as long as he has seen that station there he, he doesn't think he has ever seen a tanker truck going in the driveways closer to 82, every time those tanker trucks have come in there, they have gone into on State Road they have gone into the drive to the south because it is, he means to the north, north because it is right there when they pull in they pull in that way and go right across the front of the building or if they are coming down 82 they come in and go across the front of the building because that's where the fill tanks are, their tanks, he doesn't think he has ever seen any of them go in, they can't come in to the one that's the drive facing 82 and the drive that's close to State Road, he doesn't ever think they can pull into that and make the turn around those pumps to come in there so they have to come in from that driveway to the north on State Road and they would have to come in through the driveway, the furthest driveway on the west on 82 to get those tanker trucks in there those tanker trucks are not going to go in and out those two small ones, that is just for vehicle traffic and again you know he, he has seen people try to pull out of there you know and then they want to pull out of there and make a left on State Road okay so now they come out into the curb lane of traffic to cut across to go into the lane that's going to go, to try and make a left hand turn to go east on 82 because it's almost impossible to turn out of that station and make a left on 82 there to go, to go east over there so they come out from the State Road side and most of them will exit from the further apron so that they can have enough room to turn right and then get into the left hand turning lane, that's what his concern is and he thinks that you should, he thinks that you should you know eliminate them and widen those two and he is going to stand fact on that, sorry.

Mr. Kollab stated Mr. Chairman.

Chairman Sandora stated Sir.

Mr. Kollab stated well, in his opinion, proper signage will be clear and he has done it and he has been to a gas station where it says you know, enter and exit and we are willing to provide the best of signage and, and make sure that.

Chairman Sandora stated he is sure that you are.

Mr. Kollab stated a he means curbing, the entrance would have been it would be really a problem to get out of the pump area and just try to maneuver out from that, from that close curb, we will make sure that's been curbed, you know, landscaped so and then with the proper signage that at least you provide two accesses for people to get in and into the building especially if there is a truck blocked the west entrance of and most of all traffic, mostly would be from Route 82 rather than State, most of the traffic, the heavy traffic comes from that side and if you have a trucker just park and that's where our fills, as and the west entrance, just as you drive from the west entrance of the building that's the trucker comes in, then you would definitely block that Route 82 and he doesn't seen how many people want to turn into State and just turn into the building, into the, into the gas station, he would like, this is, you know, that's a, in his opinion that's a good option, we are willing to work with any signage, we would.

Chairman Sandora stated well, he is only one person up here so.

Mr. Kollab stated willing to work with any signage we will prevent people from exiting on that closed curb.

Chairman Sandora stated okay, Thank You, anybody else.

Mr. McCarthy stated a Mr. Chairman, just to.

Chairman Sandora stated Mr. McCarthy.

Mr. McCarthy stated to follow up, he would be satisfied as long as the City Engineer is, feels that the safety concerns that were brought up are going to be addressed.

Chairman Sandora stated Thank You, anybody else on the board have anything.

Chairman Sandora stated he will make a motion to approve a, a, well for the record Sir, do you the a, the Building Department has a made some statements to you about the trash storage and about the parking spaces, do you agree to take care of those things.

Mr. Kollab stated 100%, 100% we will do that.

Chairman Sandora stated okay, he will make a motion to approve the site plan approval for Sunoco Food Mart on the condition it meets all the recommendations and conditions of the Architectural Review Board.

Mr. McCarthy stated second.

Chairman Sandora stated it's been moved and seconded, Ms. Fashempour please call the roll.

Mr. Willey stated Mr. Chairman.

Chairman Sandora stated Mr. Willey.

Mr. Willey stated a, a, does, does that also include the recommendations for the City Engineer, you said ARB.

Chairman Sandora stated they have to go to the ARB before.

Mr. Willey stated yeah, but, but, the City Engineer made the recommendations on the cuts and so forth, does that include those also.

Chairman Sandora stated well, they haven't said what they wanted to do yet.

Mr. Willey stated okay.

Chairman Sandora stated what do you wish to do, do you want to go.

Mr. Kollab stated we would want to go with what the Engineer proposed, yes.

Chairman Sandora stated want to go with what the Engineer proposed.

Mr. Kollab stated yes, he thinks that's a good idea.

Chairman Sandora stated then he will add to the motion, the recommendations of the Engineer.

Ms. Fashempour stated and Building Commissioner.

Chairman Sandora stated and Building Commissioner.

Chairman Sandora stated Ms. Fashempour please call the roll.

Ms. Fashempour stated can she have a second.

Mr. Willey stated second.

Roll call: Yeas: Four - McCarthy, Mayor Stefanik, Willey, Bull. Nays: One - Chairman Sandora. Motion carried.

Chairman Sandora stated Thank You, you go before the ARB next a.

Ms. Fashempour stated the 28th she believes it is.

Chairman Sandora stated 28th.

Ms. Fashempour asked the Contractor for his name.

Mr. Musgrave stated Dave Musgrave.

Ms. Fashempour stated how do you spell that.

Mr. Musgrave stated MUSGRAVE.

Ms. Fashempour stated Thank You.

Chairman Sandora stated Thank You.

Mr. Fashempour stated Thank You Sir.

Chairman Sandora stated Good Luck to you.

Mr. Kollab stated Thank You very much.

Ms. Fashempour stated Thank You.

Lot Split/Consolidation

Zillich Interiors, Inc., **Huntington Park Subdivision - SL 17 Nicole Place, R1-A Zoning. Lot Split and Consolidation.**

Subdivision Approval

Zillich Interiors, Inc., - **Huntington Park Subdivision No. 4 - Revised Preliminary Plan Approval.**

Chairman Sandora stated the Applicant is here, step forward please and a tell us what you would like to do.

My name is Greg Zillich 7619 Pleasant Run, Seven Hills, Ohio. Mr. Zillich stated he is here for a lot split and consolidation, it came up, some issues on the access driveway to the Huntington Park, in Huntington Park of the, the driveway back to the a detention basin, so what he did, there were issues over who was going to maintain it, who was going to take care of it, what he did was, he pulled out, all the properties pertaining to access to an oil well there and gas well, all the easements for electric, ingress and egress the swales and he put it with subplot 17 which he will keep and put in his name and he will be responsible for all the maintenance, upkeep and that's about it, he took back all the liabilities, there was an issue and he talked to the Engineer when he was redoing the driveway for an access there, we will take care of it, so he is putting it all back.

Mr. Zillich stated you see on the, it would be the the easterly side, you take subplot 16, he guessed, so if you can see it on your drawings, on subplot 16, if you take that property line you see on the Phase 4 there is a 20' section, he shorten the lots and put that in with the block.

Mr. Zillich stated does everybody understand so far, does it all make sense.

Mr. Willey stated Mr. Chairman.

Chairman Sandora stated Mr. Willey.

Mr. Willey stated Mr. Zillich, so, so your going to take all the, the retention basin and so forth, the access roads, the utilities and so forth put them on one lot which would be in your name.

Mr. Zillich stated yes.

Mr. Willey stated so, so that would not then be the responsibility of the Homeowners Association or common area.

Mr. Zillich stated no, right now it is in the Homeowners, it was a block h and it was, what happen was it was in block h and there was a block j there when this was submitted for a, for a, for the record plat, the engineer put this all as recreation and homeowners and the block j there never was part of that, that recreation area that's left now is 2.6211 acres he believes it is if you see it on there which is more than the requirements, there is more land there then was necessary, part of that, that block was not suppose to be there he just had that all as a block h which it was a mistake and the only way to fix it is to come back and explain what happened there.

Mr. Willey stated as a matter of interest Mr. Zillich, why are you willing to take all that responsibility, you wouldn't be able to build anything on there he assumes.

Mr. Zillich stated his house, he is probably going to move in there.

Mr. Willey stated oh okay, you are going, okay.

Mr. Zillich stated it was a big issue with a the Engineering Department, he came to them and told them what the original access there was through the gas line easement with permission from Dominion and he didn't want that, it's a gravel road there and it would have stayed for who knows how long, that was the agreement that they had with with Cutter Oil, so his suggestion was to do the driveway to the detention back there back in the corner and it ended up being this, there was one, two blocks of land, four easements, there is a storm sewer easement, gas line easement, there is a some swales, there is a multitude of things that happen, what he did is he took all that out and he put in all on, on me because the issue was who is going to take care of the driveway, when we built the driveway it was 6" of stone, 4" of asphalt and it was to narrow, immediately the guy said it's not going to last, so he can't, engineering to repave it and then the recommendation we went through the whole process with engineering again there is two things happening here, he is asking for a lot split and consolidation if it doesn't happen tonight or it does that's okay, he had to do this to explain to everybody and what also here is the lot split and also Phase 4 the a, Phase 4 preliminary drawings and it also pertains somewhat, he doesn't know if it does or it doesn't, the Engineer or the Law Director would know better to a Phase one and three, his recreation that was agreed upon when we came here the first time again the Engineer made a mistake and it was over the minimum, he had here, 2.74 acres, his requirements here is 2.6 he is just a little bit over now with this here. Mr. Zillich stated there is also more land back there that he could put in to the recreation but to do all this engineering ahead of time is kind of, it's not complicated he talked to the engineer, it's, it's, it's basically he wants to propose what he wants to do the lot split is already, it will not change but the issues of additional recreation to add to that land or it's sufficient, he shorten the lots up by 20' subplot 45, 46, 47, 48 and 49 by 20' to create a buffer, a 20' buffer around the corner of where the gas well is fenced so there is never going to be an issue of being too close to that, it was 5' off, now it's, it's, a little bit more. Mr. Zillich stated the, the driveway was a big issue, it was under built for the purpose that he needs it for, he is re-building it now, he has a permit for, that's contingent of him doing all this here, and he will be solely responsible to maintain it, and he would be giving back all the easements of record for access to the City, they are stay in tact, they will be re-written the access easement would have to be separate, another one would have to be written because right now the City has access to the entire driveway through the Homeowners Association he, that one stays, the back one stays in tact but the front part he would have to give another easement and he is saying, some storm sewer easements, some other easements that are not really on here that have to be broken out but to do all this here with the engineering and everything two, three times he has to, in light of him taking the, the 20' from those lots that complicated everything, it, if was just a lot split and consolidation it really didn't matter but

it's an issue of re-proposing the, the Phase 4 and the lot split at the same time, like he said if it doesn't happen today if anybody doesn't understand or they are not comfortable with what he is saying they don't understand it, it's not a problem for him, they issued him a permit to do the work, you know when he worked through the details with the Engineer the specifics that he is looking for, easements and all the rest of it and he gets it 100% what he wants he doesn't have to come back here five, six times and do it multiple times, the just of it is, he is taking everything back so the City never has a problem with, with the other 56 people there that this driveway going across to the Homeowners Association and 15, 20 years from now when that's done he still has a as, a record, he will be on record as being liable for maintaining it, the same he has with the cul-de-sac and with some other property there that he is responsible for everything.

Mayor Stefanik stated Mr. Chairman.

Chairman Sandora stated Mayor.

Mayor Stefanik stated the question about the access road to the retention basin, you are using that for the oil well also.

Mr. Zillich stated yes, yes.

Mayor Stefanik stated you are going to maintain just the part that you are going to use for the oil well.

Mr. Zillich stated he has to right now, he is the Homeowners Association so he has to maintain it all.

Mayor Stefanik stated okay when all the houses are built and it's turned over to the Homeowners.

Mr. Zillich stated the back part.

Mayor Stefanik stated the back part, they will take care of the back part of the road.

Mr. Zillich stated yes, yes.

Mayor Stefanik stated but you are going to maintain the entrance and that will be increased in size and depth or depth of the asphalt to.

Mr. Zillich stated right now what we have proposed is he believes another 8" going on top the, the 6 and 4 if he is not talking out of turn he doesn't remember exactly what.

Mayor Stefanik stated but that is something you are going to take care until the end of time.

Mr. Zillich stated yes.

Mayor Stefanik stated the access road to the oil well.

Mr. Zillich stated yes, that stays with him with an agreement with the oil company and backed up by paperwork to the Engineering Department in the City, it's a letter, either a bond or a letter of guarantee or a and it's, it's, it will be assumed by whomever owns that piece of property

and it all goes with one piece of property now instead of multiple, there would have been 56 people to answer the questions that he is going to answer now and it will stay with that one lot and that would be probably somewhere in the, it would have to be something in, in as far as the deed restriction and the deed to that lot that would go along with that the property, the maintenance of the road until it's abandoned or or taken out or whatever has to happen there with that piece of property and the ownership of that property is he saying that right.

Someone stated Thank You, gotcha.

Chairman Sandora stated Mr. Kelly do you have any questions or concerns with what he has.

Mr. Kelly stated Mr. Zillich, he is sorry he just, he understood, at least he thinks he understood what you said.

Mr. Zillich stated okay.

Mr. Kelly stated which is you are going to retain the ownership of the property and therefore the obligation to maintain the roadway.

Mr. Zillich stated yes.

Mr. Kelly stated for that part of it's length that takes you back to the well.

Mr. Zillich stated yes.

Mr. Kelly stated and then from the well, to the detention basin that is going to be, that's going to fall to the Homeowners Association.

Mr. Zillich stated yes, that particular piece is part of the detention basin, always was and the way it's written now with the Homeowners Association and what we presented from the beginning that maintenance was always with the Homeowners Association, the Insurance, the Liabilities, the.

Mr. Kelly stated but is it clear in the Bylaws for the Homeowners Association or the Covenants and Restrictions that go with the Homeowners Association that they understand the people who are buying those lots that they understand that, that is there responsibility.

Mr. Zillich stated yes.

Mr. Kelly stated is that in there.

Mr. Zillich stated yes.

Mr. Kelly stated okay.

Mr. Zillich stated yes that's in there, there, what do you call it, it's in there with the Homeowners Association papers.

Mr. Kelly stated could he, could he get a copy of that for our records.

Mr. Zillich stated yes, yes you have two copies.

Mr. Kelly stated because there comes a day when you know we need the Homeowners Association to maintain that.

Mr. Zillich stated you have two copies, one from Phase 1 and 3 and one from 4, we have submitted them twice.

Mr. Kelly stated oh very good, he is sorry, he wasn't aware of that Sir.

Mr. Zillich stated and they, they were, the last ones were submitted probably in November and he thinks that the Engineering Department has them, they should be on file there, but it's, quite a bit of paper work if you have them he wouldn't want to.

Mr. Kelly stated well, we have a problem through the City now, as, as everybody knows with the detention basins in terms of the a, maintenance of them and the Homeowners Association obligations to maintain them and he guessed we need to make them, we need your assistance, we need your help to make it clear to your Homeowners Association when you turn over the, the, the, the reigns of, of that operation to them that they bear a very clear responsibility to maintain that detention basin.

Mr. Zillich stated he thinks, he doesn't know how it is set up now, but from his understanding the City was always, that is what the driveway was for, for the inspections he doesn't know whose responsibility it is to maintain it, he gave access to the City for the inspection drive, he is, he is the, the major, majority owner of properties there so he is the Homeowners Association right know and he maintains it, when we did the other subdivisions once it was dedicated he really doesn't know who was taking care of them.

Mr. Kelly stated well, that's, that's the point.

Mr. Zillich stated and he understands that.

Mr. Kelly stated okay, we need the Homeowners Association to understand.

Mr. Zillich stated he doesn't.

Mr. Kelly stated as the developer, you create the Homeowners Association, there comes a point in time at which you turn over the brains of the operation, of the Homeowners Association to an elected group of the Homeowners.

Mr. Zillich stated yes.

Mr. Kelly stated representing the Association.

Mr. Zillich stated he doesn't know how that was proposed or setup, how it was accepted upon dedication.

Mr. Kelly stated you are the developer, you must know.

Mr. Zillich stated yes, he doesn't, right know he doesn't know, his father is also not here, he also took care of all that with that part he did, he never read the paperwork in full but, the, the understanding is, who will maintain it that's a separate issue for what he is here today, who is going to maintain the detention basin, he doesn't know that, that was approved and accepted.

Mr. Kelly stated well.

Mr. Zillich stated back in November upon dedication.

Mr. Kelly stated okay, well he guessed what he is saying is.

Mr. Zillich stated he can ask.

Mr. Kelly stated he can't imagine that the City has undertaken that responsibility and the point, the only point he is trying to make Mr. Zillich is this one.

Mr. Zillich stated he doesn't know.

Mr. Kelly stated just real small, at the point at which you turn over the Association to the Association the, the operation and the responsibility, it would be very helpful if you could let them know that they bear a significant burden in maintaining the detention basin.

Mr. Zillich stated he understands what you are saying, no one ever did before, he knows that in the other, if it's written that way there, there is an opportunity now with the next phase coming up to amend that being that, the only person who has to say yes or no is him right now, he doesn't know how it was written, he understands it is a big problem and in his opinion the 56 people that will be living there should maintain it because no body ever did, if there is an opportunity you change it you look at it, now's the opportunity, it's out, but now's the opportunity and the time to change it because he doesn't have to ask, he only has to ask two other people that are, bought lots and are building there right now, there's going to come a point in time when he will have to ask 56 people to pay which is a nasty word to go there and clean it and maintain it or appoint somebody to do it otherwise it kind of ends up in limbo, no body takes care of it.

Mr. Kelly stated well, Mr. Chairman if he can.

Chairman Sandora stated go ahead Mr. Kelly.

Mr. Kelly stated it, it, it, it may seem to you that it's in limbo but it isn't, but it isn't, it's usually in somebody's back yard and.

Mr. Zillich stated he, he would think that the point in time to do that is to do the research now and when we come back for Phase 4 or even sooner to look at that, you know, it's an outside issue from this here but there is an opportunity and time to amend that, whose responsibility it is.

Mr. Kelly stated he would agree with you and I.

Mr. Zillich stated and he would like that and he has no problem changing that now.

Mr. Kelly stated you think you could look at that, that would be very helpful.

Mr. Zillich stated he maintains it, he means he's maintaining it, he cuts the grass there, he pulls the, he's maintaining it now so, eventually the Homeowners Association will have to cut the, there is substantial amount of grass there, green areas to maintain but the actual wording of what you would want them, the responsibility of, of how to take care of detention, he has got to believe, was, is never, was never in the Homeowners Association documents that you asked for, he doesn't think there is any model of that in the city paper work because when we did ours, it came, we were given, we were given what, we were given a model to go after and if you had that problem in other subdivisions, this not in place now that might be, that might be something, the wording would have to amend. Mr. Zillich stated and he really doesn't have a problem because it just ends up being a headache for him when it overflows the one in Foxwood, his Dad did in 1980, 80, 88, 89 and the way the grading was designed all the rest of it, he means any piece of debris, any paper, anything it would flood, it would fill up and nobody is going to go down in 6' of water and pull that out but somebody has to and there is really, he doesn't think there is anything in place that you, you have even expressed wanting that, that was needed to maintain that, he thinks if you put the wording in place who, who, who exactly is suppose to maintain it you say the Homeowner Association then it directly falls on them, there is some recourse when they don't, up until now it is just him and we did that on and everything you know probably the way things are it will probably be there for the next 4, 5 years, 6 years and he will have to maintain it and he doesn't know how long it going to take to sell.

Mayor Stefanik stated Mr. Chairman.

Chairman Sandora stated Mayor.

Mayor Stefanik stated he thinks, if he could ask the a Planning Secretary do you have any knowledge that this belongs to the Homeowners Association when it's finally dedicated this retention basin or is this part of our recreation.

Mr. Zillich stated he knows the answer to that.

Ms. Fashempour stated she is not, she can't tell you yes or no, she don't, she doesn't know that off the top of her head.

Mayor Stefanik stated okay this is something we will have to find out within the next couple days before we move forward.

Mr. Zillich stated that he knows the answer to, the, the detention area and the green areas belong, all the storm sewer easements belong to the Homeowners Association, the 3.2 acres in the back, recreation behind that belongs to recreation which is also deeded to the Homeowners Association, the City never took any ownership of any property, it was a big issues also and that's a, when we sat here you know, it was an

ongoing thing, the City never wanted ownership of any of that and, and they didn't want the maintenance and they didn't want the liabilities but he, but he honestly doesn't think there is any wording in place when it is all said and done whose responsible and what's the actual, what actually is maintenance of a detention area.

Mayor Stefanik stated we will find that out within the next couple days or weeks or so, we need to get that straighten out.

Mr. Zillich stated he knows right now there are recommendations of the one detention basin, there is silt in there, you know from Ohio Soil and Water, the EPA, she came out, Lisa and they want some, some plantings in there and he told her, he asked her opinion, he wants to plant something that flowers all the rest, the maintenance but when it's all said and done, it's an expensive and no one is going to do that, it's a big expense, that detention is hard to cut, it's hard to maintain and when there is debris in there you know it's, it's a rough job to take care of, that could go with a landscape contract, that could go with a multitude of things but right now he doesn't think there was anything that was ever said what actually is maintenance of a detention basin because when we finished nobody did it, he means nobody came by, when we were done Foxwood four, four, four years, five years.

Mr. Kelly stated does that, does that Mr. Chairman.

Chairman Sandora stated Mr. Kelly.

Mr. Kelly stated can he ask, does that suggest Mr. Zillich that maybe the Homeowners Associations don't fully gasped their responsibility.

Mr. Zillich stated he doesn't know if that's in there, who maintains it.

Mr. Kelly stated well you see if you own it, it's yours, if, if the Homeowners Association owns the land on which the detention basin exists it is their detention basin and they bear a responsibility for it.

Mr. Zillich stated he, he understands what you are saying in theory but maintenance to a Homeowners Association could be cutting the grass, could be mulching bushes.

Mr. Kelly stated unless somebody comes along you see like you and tells them individually and as a group you must maintain this detention basin it is yours, it is your significant duty and obligation you see, somebody has to tell them that and since you are selling them the property and you are conveying to them the common area which is this detention ground it seems to him logical that it falls to you as a developer to tell your Homeowners and the Homeowners Association they have to maintain this.

Mr. Zillich stated it's an ongoing, it, it, he understands what you are saying but it, it's easy to say this piece here but he was all the way on Mercury Drive cleaning out a Creek which is $\frac{3}{4}$ of a mile away from me because he was asked, to, that had nothing to do with him but he was told by the City Engineers his subdivision silted up this creek here and he crawled under the street with buckets in a 4' culvert and he cleaned it out, there is more than just, it doesn't stop at the property line,

there is a creek, there is multitude, he doesn't think they, they, that anybody really understands what, there is nothing in place, what it's suppose to do, how it works, what's the maintenance of it, if there is debris in there, are they suppose to go clean it out. Mr. Zillich stated whose responsibility is that.

Chairman Sandora stated Mr. Zillich if he can interject.

Mr. Schmitzer stated Mr. Chairman he would like to interject something, a typ, in the City here when we do approve subdivisions one of the conditions for approving the subdivision is submitting a Stormwater Pollution Prevention Plan part of that plan does include a long term maintenance plan for all of our stormwater basins that are proposed with that subdivision, in that long term maintenance plan it includes items such as when silt needs to be cleaned out, when other items necessary to make that basin function need to be taken care, that should be included in the Stormwater Pollution Prevention Plan that he submitted, he doesn't know that for verbatim if it, if the language is in there but he is pretty sure in order for an approval to come in that had to have been in there.

Mr. Zillich stated that doesn't, that doesn't go, you see that applies to now but that only went into affect six years ago, that went into affect while he was developing this subdivision, it doesn't help you for what you did in 1985 or 87 or 92 or the multitude of detention basins that are out there, there are, are there's, there's six detention basins that we built that have none of that wording in there, this one now does, they are trying to fix it but that's not going to help you with your problems of the ones and he can start just naming subdivisions because Stormwater and Soil Prevention was not in place when those were built, we didn't go through any of that.

Mr. Schmitzer stated and he understands that but he thinks what we are talking about here.

Mr. Zillich stated and that's where the headaches are.

Mr. Schmitzer stated what we are talking about here he thinks is this subdivision which is a newer subdivision, other subdivisions he agrees with you yes, the, the language was probably not in place.

Mr. Zillich stated this subdivision here.

Mr. Schmitzer stated people probably don't know what to do but he thinks there is enough in the plans there to at least get a start for the Homeowners Association on the bear minimum requirements that they need to do to maintain that pond.

Mr. Zillich stated he, he would agree with that and in some type and you can do it a multitude of different ways but everybody, you know everybody is happy when they buy and everybody is upset when something goes wrong maybe something in place of an acceptance letter that, that is, is somehow prepared by the City that a Homeowner would have to sign off on that, understands the, the, what their responsibilities are that, as being part of the Homeowners Association that this is part of that,

that would relieve the City from the liability there and it's a letter that he would put together or the developer or someone selling a lot that goes, you know when you go for an occupancy that it says that he informed the Homeowners that this is what they have to do and then there is never a question about it and he gets the deal and it's on file.

Chairman Sandora stated all right Mr. Zillich a, okay we are just talking about this issue tonight so a if we will check into it and he is sure that there is something, there is something in the Deed Restriction or the Covenants that may address that okay but for tonight let's, let's deal with issue at this point and time and a, the Law Director, the Engineering Department can look into the past.

Mr. Zillich stated this is 90% of why he is here tonight to solve this, he is taking the responsibility back.

Chairman Sandora stated right, right, responsibility for this so let's just, let's get back on, on this so we can deal with this, anybody else have anything on this.

Mr. Willey stated he is not an attorney, Mr. Chairman but, at the time and this is kind of in a form of a question also to our Law Director, at the time that the City, a builder, a developer submits, turns over the bylaws, they create them and file them with the City of North Royalton Building Department, do we, do we as a matter of a procedure review those to see you know what holds the City harmless and, and so forth.

Mr. Kelly stated typically Mr. Willey he is not going to reveal to you what, what you suspected all along which is that I don't know much about what he is talking about but.

Mr. Willey stated no, no, no he wasn't thinking.

Mr. Kelly stated he doesn't know, he doesn't know what the history has been and he would have to check the subdivision regulations, his suspicion is that Ms. Fashempour probably knows better then he does but a, the, covenants and restrictions that get filed with the County Records Office generally as part as parcel of the platting of the you know of the creation, a, represent a contract, a covenant running with the land and part of the exchange that takes place between the developer and the homeowners at the point in time at which the title transfers, so the City technically doesn't even have an interest in you know a tangential you know kind of in an offside collateral interest in the manner, and we don't have a direct interest, and we are not a direct participant nor a contracting party with them we do have obviously an interest in seeing to it that the covenants and bylaws have some provisions that, that place the Homeowners Association on notice of the fact that they have an obligation to maintain the common area or to, or to a maintain at least in this instance the detention basin system, that we would have an interest in, in knowing, Brenda he don't know, Mr. Chairman can he ask Brenda a question.

Chairman Sandora stated sure.

Mr. Kelly stated do you.

Ms. Fashempour stated it has been past practice that when a subdivision came before us as part of, as part of the preliminary plan she believes that the Deeds and the Covenants were supplied to the Law Department for their review.

Mr. Kelly stated for review, okay.

Ms. Fashempour stated and the Law Department always talked with the Developer's Attorney, changed the wording and so on and so forth so that when it went before dedication it was accepted, those documents were what the City wanted to see.

Mr. Kelly stated very good.

Mr. Willey stated Thank You Mr. Chairman.

Chairman Sandora stated Thank You Mr. Willey, Thank You Mr. Kelly, Ms. Fashempour.

Chairman Sandora stated okay, getting back to this issue, does anybody else have anything on this.

Mr. Zillich stated he would like to say something, Mr. Chairman, when he came this was the only way he had the opportunity, he doesn't want to take up everybody's time on this, this is the only way he is able to address all these issues in front of everybody by applying and it's not a major thing if this does not get approved tonight, it gets tabled, it gives him an opportunity to start a discussion and if there are other issues outside of this here that need to be addressed, he has time, he, this is not imperative that this passes tonight but it's the only way he can address everybody about the issues and, and talk them out.

Chairman Sandora stated okay, the Engineering Department again do you have any issues with this, do you have any problems with this at all.

Mr. Schmitzer stated he doesn't have any problems with the proposed lot split and consolidation as proposed except for the, the minor items that he mentioned in his report.

Chairman Sandora stated and he has addressed those or he will address those.

Mr. Schmitzer stated yes that is something that we can work through and address before we do the final sign off on this.

Chairman Sandora stated Mr. Kelly do you have anything on this.

Mr. Kelly stated no, quite the contrary, the lot split and consolidation makes a great deal of sense.

Chairman Sandora stated yes.

Mr. Kelly stated Mr., Mr. Schmitzer explained it to him in some detail a couple of weeks ago and it's, it's just a, it's the right, for a lot of reasons it would seem to him to be the right thing for the City to do a, our concerns obviously have to, do you know are broader than that and relate to the question of the detention issues and so forth and we can take that up at another time.

Chairman Sandora stated Thank You Mr. Kelly.

Chairman Sandora stated Mr. Alvarez do you have any comments.

Mr. Alvarez stated he has no comments Mr. Chairman.

Chairman Sandora stated does anybody else on the Board have any comments on this.

Chairman Sandora stated does anybody in the audience have any comments or anything they want to say.

Mr. Zillich stated again, he just wanted the Planning Commission to understand that by taking the lot split and consolidation it almost binds you to accept revising Phase 4, so you understand that it's changing, his recreation area, the size of the those four lots, the lot split does that, he is taking away that 20' and once it's recorded so you understand, they have to go part and parcel with each other and if you are not comfortable doing both of them you need more time, then his opinion would be to understand both, both of them and be comfortable with both before you, you force yourselves into accepting without understanding because the, the preliminary, the proposed preliminary plan and all the easements will change, the recreation as long as everybody understands.

Chairman Sandora stated but you were over on your allocation for the recreation.

Mr. Zillich stated yes, yes.

Chairman Sandora stated you were over on the allocation and you were over for the easements.

Mr. Zillich stated yes.

Chairman Sandora stated okay.

Ms. Fashempour stated and this provides a 20' buffer on the back of all those lots, the new lots that were created so that we are not going to have to.

Mr. Zillich stated yes, that's why.

Mr. Zillich stated he was 229', 228' 2.6, 2.4, so he took the 20' back and he is still within.

Chairman Sandora stated and now you are providing a buffer for those homes not to see anything.

Mr. Zillich stated 20', yes.

Chairman Sandora stated okay, does anybody have a problem with that.

Mr. Willey stated no as long as, Mr. Chairman, as long as it's reconciled, Mr. Zillich seems to be hedging a little bit and a, a, as long as it's reconciled with a when he proposes Phase 4 so Mr. Zillich, does he understand a do you really want us to approve this tonight or do you feel comfortable.

Mr. Zillich stated yes he does, yes he does, when he talked to the Engineer what you have in front of you is the exact same sketch plan that's approved and he told him he would come here and the only way he could come here was by proposing to change the sketch plan to explain it to you and if you are comfortable then he will prepare it the way he is proposing to do it but all you have now is him saying what he is going to do, you don't have a physical paper showing you exactly what he is going to do, he is just telling you what he proposes to do but it's reflected on the lot split.

Ms. Fashempour stated in other words he did the lot split.

Mr. Willey stated yes right.

Ms. Fashempour stated but didn't revise the preliminary plan for Phase 4 yet.

Mr. Willey stated do we, do we need that documentation before we.

Chairman Sandora stated well for the, we can put a condition on, well whatever you want to do you know, you want to table it and wait until he comes back with another preliminary plan or we make a motion contingent on, on him submitted the a, the proper, the new preliminary plan.

Ms. Fashempour stated or can we approve it contingent on him providing a new plan.

Chairman Sandora stated that's what he just say.

Ms. Fashempour stated she is sorry.

Chairman Sandora stated that's what he just said.

Ms. Fashempour stated so that he can invest his money and know that the Planning Commission will look favorably upon that much of it before he goes and changes everything.

Mayor Stefanik stated Mr. Chairman

Chairman Sandora stated Mayor.

Mayor Stefanik stated was that a motion.

Chairman Sandora stated that was a motion.

Mayor Stefanik stated this is a second, this is a second.

Chairman Sandora stated it's been moved and second Ms. Fashempour please call the roll.

Ms. Fashempour stated now which is this for the Lot Split and Consolidation or the Revised Preliminary Plan.

Mayor Stefanik stated the first one, the lot split.

Mr. Kelly stated it's the first one, if he understood correctly Mr. Chairman your motion was as to the lot split but upon the understanding and contingent upon the premises and the offers that Mr. Zillich has made to come back with the preliminary plan that, that conforms to his description this evening and to the changes that are mandated as a result of, of the lot split and consolidation.

Chairman Sandora stated yes, Thank You.

Ms. Fashempour stated second.

Mr. Willey stated second.

Chairman Sandora stated it's been moved and seconded, Ms. Fashempour please call the roll.

Roll call: Yeas: Five - McCarthy, Mayor Stefanik, Willey, Bull, Chairman Sandora. Nays: None. Motion carried.

Mr. Zillich stated Thank You.

Ms. Fashempour stated are we going to do the Preliminary Plan now.

Chairman Sandora stated yeah we will do the, make a motion for the Huntington Park Subdivision No. 4, Revised Preliminary Plan as the conditions placed forth on by Mr. Kelly.

Second Mayor Stefanik.

Chairman Sandora stated and the Engineering Department, it's moved and seconded, Ms. Fashempour please call the roll.

Roll call: Yeas: Five - Mayor Stefanik, Willey, Bull, McCarthy, Chairman Sandora. Nays: None. Motion carried.

Chairman Sandora stated okay, it's approved.

Utility Plan Approval

BJAAM Environmental, Inc. - 10155 West 130th Street, PPN 481-05-011, MS Zoning. Requesting approval to install two (2) monitoring wells within the right of way along Albion Road.

Ms. Fashempour stated asked if there was anybody here from there, okay, she is going to request that we remove that from the table, can she have a motion.

So moved Don Willey.

Second Victor Bull.

Chairman Sandora stated motion to remove BJAAM from the table, it's been moved and seconded, Ms. Fashempour please call the roll.

Roll call: Yeas: Five - Willey, Bull, McCarthy, Mayor Stefanik, Chairman Sandora. Nays: None. Motion carried.

Chairman Sandora stated it is removed.

Ms. Fashempour stated okay, and then she has one more under Utility Plan Approval, she needs a motion to add;

Carlo Chiuchiarelli, extension of proposed 384' of sanitary sewer on State Road south of Wiltshire Road - Approval.

Ms. Fashempour stated so can she get a motion to add that to the Agenda.

So moved Don Willey.

Second Victor Bull.

Chairman Sandora stated it's been moved and second to add the, Carlo Chiuchiarelli to the Agenda, Ms. Fashempour please call the roll.

Roll call: Yeas: Five - Mayor Stefanik, Willey, Bull, McCarthy, Chairman Sandora. Nays: None. Motion carried.

Ms. Fashempour stated now she needs a motion to approve the extension of the Sanitary Sewer on State Road 384'.

Chairman Sandora stated anybody here on the Board have any questions or concerns on it, Engineering Department do you have any problems with it.

Mr. Schmitzer stated no, not at this time Chairman, he just would like to state that he thinks this is a great thing for the City, for the Applicant to go ahead and, and with their own money extend the sewer for the benefit of other residents in the area, he wished, wished more people would be like this Applicant and, and, and help out the City with their own monies.

Chairman Sandora stated Thank You anybody in the audience have anything on this.

Chairman Sandora stated make a motion to approve the extension of the sewer line.

Mayor Stefanik stated second.

Chairman Sandora stated it's been moved and second, Ms. Fashempour please call the roll.

Roll call: Yeas: Five - Willey, Bull, McCarthy, Mayor Stefanik, Chairman Sandora. Nays: None. Motion carried.

Chairman Sandora stated it's approved.

Miscellaneous

Ms. Fashempour stated one other thing under Miscellaneous since we went through the Agenda, there will be no need for a meeting next week, so she will post that the meeting for the 23rd will be cancelled, and that's all she has.

Chairman Sandora stated Thank You Ms. Fashempour.

Adjournment

Chairman Sandora stated motion to adjourn.

Second Don Willey

Chairman Sandora stated moved and second to adjourn, Ms. Fashempour please call the roll.

Roll call: Yeas: Five - Mayor Stefanik, Willey, Bull, McCarthy, Chairman Sandora. Nays: None. Motion carried.

Ms. Fashempour stated Thank You.

Chairman Sandora stated we are adjourned.

Planning Commission Meeting for Wednesday, July 16th, 2008 adjourned at 8:50 P.M.

Approved: Planning Commission Chairman Tony Sandora

Attest : Planning Commission Secretary Brenda Lynn Fashempour

Date : September 10, 2008