

**CITY OF LIVONIA
PUBLIC HEARING**

Minutes of Meeting Held on Monday, August 2, 2021

A Public Hearing of the Council of the City of Livonia was held at the Livonia City Hall Auditorium on **Monday, August 2, 2021**.

MEMBERS PRESENT: Kathleen E. McIntyre, President
Scott Bahr, Vice President
Brandon McCullough
Rob Donovic

MEMBERS ABSENT: Jim Jolly
Laura M. Toy
Cathy K. White

OTHERS PRESENT: Mark Taormina, Planning and Economic Dev. Director
Paul Bernier, City Attorney
Sara Kasprovicz, Recording Secretary

The Public Hearing was called to order at 7:00 p.m. with President Kathleen McIntyre presiding. This item is regarding **Petition 2021-06-01-04** submitted by Speedway L.L.C., pursuant to Section 23.01 of the City of Livonia Zoning Ordinance #543, as amended, requesting to rezone the properties at 13950 Merriman Road and 31324, 31330 and 31374 Schoolcraft Road, located on the northeast corner of Schoolcraft and Merriman Roads in the Southwest ¼ of Section 23, from C-1 (Local Business) to C-2, (General Business). This item will move to the Regular Meeting of **August 23, 2021**.

The Public Hearing is now open. There were 2 people in the audience.

McIntyre: Mr. Taormina are you going to start? I should announce that there are three members of the Council that are not with us this evening, Jim Jolly, Laura Toy and Cathy White.

Taormina: Thank you, Madam President. Again, to explain the petition that seeks to rezone the four (4) properties that are at the northeast corner of Schoolcraft and Merriman Roads. This would be to allow for the redevelopment and expansion of the existing Speedway gas station. The change as you indicated would be from C-1 (Local Business) to C-2, (General Business). The zoning is necessary because our gas stations are treated as a waiver use in the C-2 districts and are not allowed in the C-1 district. The existing facility does operate as a valid, non-confirming use. The four (4) parcel that make up the site are all owned by Speedway. The corner property is the location of the existing gas station that is identified on the survey as Track 1. The property is about 150 feet by 130 feet. The other three include the parcel immediately to the north of the gas station which contains the former Bai-Lynn party store. The parcel to the east, which contains a one-story office building that's

identified as Track 3 and then Track 4 is the parcel to the east of that, also contains a one-story office building. Combining the four (4) properties, contain about 310 feet of frontage on Schoolcraft, 175 feet on Merriman Road, with a total land area of 1.64 acres. All four (4) parcels, again, are currently zoned C-1, and the proposed rezoning would place the entire site under the C-2 classification. The proposed redevelopment would involve demolishing and removing the current gas station as well as the former Bai-Lynn party store as well as the office building at 31324 Schoolcraft. That is Track 4, then constructing a new gas station. This is what the site plan would look like, upon completion. The preliminary site plan shows that a new 4,600 square foot gas station building that is positioned in the approximate location of the existing party store, this building is nearly identical to the one being constructed at Seven Mile and Newburgh Road. The new building would be set back about 117 feet from Schoolcraft, 62 feet from Merriman Road, it would be fully conforming. There are fuel pumps positioned along the front of the property, the frontage along Schoolcraft Road. The original plan reviewed by the Planning Commission showed ten (10) fuel pumps with the capacity to accommodate up to twenty (20) vehicles. This revised plan shows nine (9) pumps, so a slight deduction in the number of pumps from when the Planning Commission reviewed this. Required parking, again, with the modified plan would appear to be at or near the minimum requirement. We will review that at the time of the site plan, should this move forward. The plan shows three (3) driveways, including two (2) on Schoolcraft and one (1) on Merriman. These are the existing driveways that would remain and be used for the new gas station. Future Land Use map shows the subject area is Corridor Commercial, which is suitable for the proposed rezoning land use. With that, Madam President, I'd be happy to answer any questions.

McIntyre: Council? Yes, Mr. Bahr.

Bahr: So, Mark, what's the, sorry, I should have had it in front of me.

Taormina: I failed to mention, that the one (1) office, Track 3, would remain, it is going to be used by Speedway for some type of regional offices. I'll let the Petitioner explain that a little more.

Bahr: You anticipated my question. You said there are no new curb cuts here, right?

Taormina: No, there are no new curb cuts. I'm going to go back to the site plan. We really haven't even analyzed this directionally. It might actually be an elimination of a curb cut; I think in the southwest corner of the existing gas station site. We'll go through all of those details of the park side, but yes, there are no increase in curb cuts, that's for sure.

Bahr: All right, you answered my main question, thanks.

McIntyre: Councilmember Donovic.\

Donovic: Thank you, Madam President. I just wanted to confirm. The building 31330, the office building, that's the one you are talking about that is going to stay existing?

Taormina: It's this building right here, if you can see that.

Donovic: This won't affect the Tony Ba'lony's restaurant? Is this totally separate?

Taormina: There is a wall between the two properties, Tony Ba'lony and Bai-Lynn party store. The owner of Bai-Lynn, excuse me, the owner of Tony Ba'lony's is here this evening. There is an issue with the parking that she is trying to resolve with the Petitioner. I'll let the Petitioner and Ethar, the owner of Tony Ba'lony's explain that. There is an issue with the parking and how tight that area is between the party store and Tony Ba'lony's. They actually share parking, for many years, thirty, forty years, maybe fifty years, they've shared parking. So, this does impact the driveway between the two properties that Speedway will have to make adjustments on their site plan in order to accommodate that. They already are in that process.

Donovic: Looking at the map, the 13950 building, is the party store, correct? It's just north of the Speedway gas station, the existing one?

Taormina: Yeah, I don't have the address.

Donovic: Yeah, they share the parking lot and that's what I was thinking about, is there going to be some sort of separation now, where that existing building is or will the new gas station take up the existing footprint of that existing party store, 13950?

Taormina: They'll take up pretty much the entire footprint of that party store.

Donovic: So, the parking spots, I'm assuming, would just back up to the back of new, potential gas station?

Taormina: No, actually the drive aisle would back up to it, so there would only be a single row of parking spaces along the side, 90-degree parking along the south wall of Tony Ba'lony's, is a drive aisle between the Speedway gas station and those parking spaces. It's hard to explain.

Donovic: I'm looking at an aerial map and it's pretty tight, so I was just trying to wrap my mind around that and what that would look like in the future, if that is going to cause issues, ten (10), fifteen (15) years down the road, with that tight of a proximity to the building and are they going to have enough parking spots at Tony Ba'lony after the existing parking spots are now being removed with the new building. That was all of my questions, thank you.

McIntyre: Anyone else? If not, we can hear from the Petitioner.

- Gaus: Hello, good evening, my name is Mandy Gaus, I'm a CESO, the Engineer of the project. Thanks for having us here tonight to take a look at this site. We are trying to work, obviously, with Tony Ba'lony, in trying to work out an option on there. When Speedway purchased this site, two (2) years ago, I think it was, there was no easement in any of the records when we pulled up the paperwork, the title work, nothing showed up. We were not aware of an easement in this location. At the last Planning Commission meeting, I know Ether showed up and had a copy of it. It was never recorded, from what I can tell, however, we are trying to make the best of both worlds. We are trying to be a good neighbor, we're not trying to come in here and say too bad, that's not what our intention is. So, what we were looking at doing, I know if you look at the document, it shows at the base of the Tony Ba'lony's building, 19 feet for parking, 20.5 feet for a drive aisle and then 19 feet for the parking, adjacent to the party store. What we were trying to do, as you can see, the shaded area along the northern property line, adjacent to Tony Ba'lony's, that would allow for that 19-foot parking and that 20.5-foot drive aisle that is shown on the easement document. It would just take out that 19 feet of parking, if that makes sense. The we would position some bollards along the back for protection, obviously for the building so that they wouldn't have issues.
- Bahr: Sorry to interrupt you, but could you show me where that grey area is again?
- Gaus: Ok, what we are looking to do there is lay pavement in place for the drive aisle. Currently, the easement that we were shown, I took a picture of last time when I was at the Planning Commission meeting, was that they had from the base of the building, you can see the 19 feet down, that was showing that they had a 20.5-foot drive aisle and then they showed 19 feet of parking at the face of the party store. We were trying to hold that 19 and that 20.5 so that basically it would be the parking spaces that would be coming out.
- Bahr: So that's your property, where you would put pavement there in order to have an alley.
- Gaus: Yes, that would be the intention.
- Bahr: I'm sure you explained that perfectly the first time, I just wasn't following.
- Gaus: No problem, it can be confusing, I know. We have been trying to work with them and obviously during site planning, I'm sure we will get even closer.
- Donovic: Madam President?
- McIntyre: Yes, Councilmember Donovic.
- Donovic: Thank you Madam President, to the Petitioner, thank you for coming tonight. That paving that you just talked about, that won't be elevated, it's going to be level with the 20.5?

Gaus: Yep, it will be part of that rear lot, just like it is currently, basically what the 19 feet of the building would then transition to the Speedway.

Donovic: Thanks, this won't be large enough to park a second row of vehicles?

Gaus: Correct.

Donovic: Is there any thought of maybe making lateral parking lanes so that people could just pull right into them or back into them?

Gaus: That would be something we have to work out with them if they want to modify their layout to make it more accessible. We're willing to help them draw it up and see what needs to happen in the process.

Donovic: Thank you, I appreciate that thanks.

McIntyre: Councilmember McCullough?

McCullough: My biggest question is, more to through the Chair to the Petitioner, it's great, obviously, working with the neighbor north of Tony Ba'lony. Overall, I think it's wonderful to look at what it looks like, what you are planning on doing to it. I know this is just zoning, but the one building that Speedway is looking to turn into the offices, I imagine there will be plans for a remodel in there?

Gaus: They've already remodeled the interior of the building, they've already pulled permits, I believe it was during COVID timeframe. There are twelve (12) people currently working there, it's the Upper Midwest Operations Group, so they're already currently located, I think there is two vacant offices, they said, at this time, so its fully functional.

McCullough: I think this site overall, I guess the biggest concern is, and I don't know if we could go to the Tony Ba'lony's owner?

McIntyre: Yes, after the Petitioner. After we are done with questioning the Petitioner.

McCullough: All right, other than that, I generally love this site. I think its great and I think Mark was saying this was going to be nine (9) pumps. Compared to what it is now, it is a well thought out plan and I like what I see.

McIntyre: All right, anything else for the Petitioner? All right, thank you very much. Would the representative for Tony Ba'lony like to speak with us?

Al-Karawi: Hello, my name is Ethar Al-Karawi and I represent ENP properties which owns Tony Ba'lony.

McIntyre: Could you give us your address please, business address is fine.

Al-Karawi: 6341 Wood Pond Rd West Bloomfield, MI, 48323. We actually have a PO box. As far as what the Petitioner was talking about, there is a proposed easement. The parcels were combined for driving and parking. Now, I did bring the survey again, this was done in 1991, so there was no computer, digital era during that time, but it does state that it was reported to Wayne County records and there is, I also have a warranty deed that also states that as well. I do have legal documentation that shows this, but because it was pre-computers and all that, obviously, this is the only copy we have. Now, my concerns are, they are going to demolish the Bai-Lynn, the 13950 building and construct a gas station. With that, because of the easement, would the structure or that fence hinder access to the roadway or parking for customers? They have delivery trucks that have to be accessible to go to the back. They have catering trucks that they park as well, these are all during business hours. Also, when Speedway is up and running, when are their delivery trucks going to be? I know they are 12-footers, with pop and concessions, it's a market, so if that's going to be on that side of Merriman, that's going to block the Merriman side. If that's going to be by Tony Ba'Lony in the back, customers are going to be basically stuck, they can't maneuver themselves to get in to come out. So, that's also an issue. That's basically why they combined these parcels, in order for them to get in, get out, go in and have access to the roadway was a necessity. What I had, the Petitioner did send me an email of these new plans, but it was two (2) hours before this hearing, I never had a chance to look it over, talk to my partners or attorneys to see if it was compliant or anything of that nature or if it is still encroached. From what we did from last hearing, is, we went in, we basically went through this survey and from what we gathered, is, from Tony Ba'Lony's building to his property line is thirty-four (34) feet. Each parking block is two (2) feet from the building, one (1) foot wide and from there it shows you can't build within twelve (12) feet of that property line, which gives twenty-five (25) feet of a driving aisle to maneuver and get passed. From what the Petitioner stated, she has 20.5, which that's something certainly that we're going to need to go over, to see if that's even enough, is that too tight, is going to be relative to what, from what we gather, that's what it was going to be. As well as, the other concern is, uncapping all of those parking spaces, with demolishing also the property and lifting all of that land, we also have the issue, before, they had environmental, as far as contaminating land. Now their going to have to take all that dirt out and get excavators, is going to be a whole process, is that also going to inconvenience Tony Ba'Lony's customers and they're not going to be able to also get in and get out of the restaurant? Is this all going to be collectively now going into where their building is, for health concerns and what not. We have a lot of issues that we never got any clarification on and we're just here to state our concerns and hope that there are conditions going forward that we can go ahead and get some of these resolutions on the issues. Thank you.

McIntyre: Thank you. Councilmember Donovic.

Donovic: Thank you, Madam President, to the representative of Tony Ba'Lony's, can you go over again, the easement situation, because a lot of other buildings have recorded easements 1990's when there wasn't computers and their

easements are part of the title and per the Petitioner they couldn't find the easement, so I guess I'm confused as to why your easement wasn't recorded, you are saying it is recorded, can you just kind of clarify that?

Al-Karawi: So, I have the job number, I have the dates, I have the stamp from the surveyor for the survey, I have the legal description. Saving the recording in Wayne County records, I believe before page 9, it states that for parcel 1 as well as parcel 2, for the combined parking and drive for the parcel as well as, I also gave a copy of, I think Mark, to the Commission as well, I'm not sure if you guys still have it. I sent it over to Stephanie and gave her a copy as well. So, it states all this on here as well as the warranty deed that I have that was signed back in 2000. This is the same exact verbiage, Bai-Lynn, per subdivision, parcel 1, parcel 2, meaning Bai-Lynn and Tony Balony's, the same Wayne County record stating that, now they don't use easement, per se', but they also have the exact meets and bounds of each parcel that could coexist with this survey. So, they both state the same exact thing, as far as what was, I don't know why they never found it, I don't know, but this is what I have from all the paperwork, I literally had to go through files to get all this stuff.

Donovic: Madam Chair, thank you. Any way the Petitioner can maybe clarify for me?

McIntyre: If you need to come up to the podium, if you'd like to, I don't know if there are any other additional questions for Tony Ba'Lony's, but if you would like to stay at that podium, that way, if we have additional questions, we don't have to shuffle back and forth.

Gaus: The language that is showing on there is actually under the legal description, so its actually the subdivision plat, that the legal descriptions are defined in. It is not a separate page for that easement document.

McIntyre: Anymore questions? Councilman Bahr?

Bahr: I'm just taking the conservative approach, thank you. I'm just thinking of how we reviewed the Seven Mile Speedway and just from my observation, I don't think the delivery trucks have things delivered to the back there, aren't they typically in the front?

Gaus: Yes, and actually, we would have no access to that rear site for deliveries, that is not the intent. The intent was for them to deliver on site, they would come through one of our new proposed driveways, deliver and then exit. That's the same with the fueling truck, we have no intentions of using that rear lot for anything, it's just providing that pavement so that they would have the drive aisle.

Bahr: Now, to the Tony Ba'Lony's representative, absent any traffic interference, delivery trucks and things from Speedway, as far as the number of spaces that are being shown for Tony Ba'Lony's, is that adequate for what you think your business needs?

Al-Karawi: I would have to go back and make sure that is exactly what we have, to make sure it's the same square footage that's consistent with what we have.

Bahr: At least can you tell me how many cars Tony Ba'Lony's is dealing with?

Al-Karawi: You know, I think there have been times, he usually has a lot sometimes, you know, they have events, they come in, they have a lunch rush and what-not, so there are different times, I think that he's a staple, so a lot of people like going there and enjoying it.

Bahr: Sure, so, I'm going to go over to Mark, so the current party store that's over there, that's coming down. The spaces that are next to that party store are currently part of the party store's property, right?

Taormina: That is correct.

Bahr: So, there's no reduction in Tony Ba'Lony's parking, technically, it's just that they are losing some spots from that nearby building that they could have used.

Taormina: Yeah, the parking was clearly shared over the years, yes, there was little differentiation that I'm sure customers provoked business, that would park on one side or the other, whatever was available. We have not done any parking calculations with respect to Tony Ba'Lony's, I do know that it operates primarily as a carry out. Previous attempts to have indoor seating failed, for not that restaurant, but a different restaurant there, was going to go in there at one time. The spaces that you see on this plan, which is the plan that Ethar has in her possession, it shows probably more spaces than what really functioned there, because he does use parking in the back for deliveries and storage. If you go back there on any given day, this would not be a space, you could park one maybe two cars back there. It's probably not as generous as what's shown on this plan. If you go to the site as well, it's easy to see where the property line is, I believe, because the pavement was freshly replaced on Tony Ba'Lony's. So, you can actually see a line that runs almost through the center of the drive aisle that is either at or close to the property line. When you see that pavement line, you'll realize quickly that there's no way a customer can park in front of Tony Ba'Lony's 90 degrees and back out without extending over that line. So there has to be some space provided on Speedway as was mentioned by Ms. Gaus. There's going to have to be some allowance for cars to maneuver on that property in order for it to work.

Bahr: Madam President, I know there are things that, some of these things we are talking about have time to work out, but from the zoning perspective, which is what we are here for tonight, and I agree with Councilman McCullough, and his comments that this is a major improvement for this site and I'm excited about it, so I will offer an approving for this tonight.

Taormina: Madam President?

McIntyre: Yes.

Taormina: It might be helpful for Ethar to understand the process. The process doesn't lock in any kind of plan at this point, thank you.

McIntyre: I was just going to explain it, Mr. Taormina, but I appreciate you bringing it up, because you know, sometimes things get overlooked. The approving resolution that's been offered as far as the rezoning, zoning changes require two (2) readings. There is the first reading with no vote taken and then there is the second reading at which a vote is taken. Our process is, after the first reading is given for a zoning change, we do not give a second vote until we have the site plans. Its not to hold things hostage, but its to make sure that before we take the final vote, to approve the zoning plan, that everyone is comfortable with the site plan. This will be read out at the meeting of August 23rd, so that's three weeks from tonight. At that point, we would have a first reading offered, no vote taken, then after the first reading, after that we expect to see what the site plan is. I know you said it at the beginning, it's been a long day for all of us, but where are we with the Planning Commission process Mark, with this?

Taormina: No site plan has been submitted.

McIntyre: Ok, so you start with the Planning Commission, the site plan process. Planning Commission reviews it and whatever the Planning Commission recommends, comes to Council. The Planning Commission, as you may know, is a recommending body, they vote, but it's a recommendation of Council and we look very carefully at what the Planning Commission recommends. We are not obligated legally to follow them.

Al-Karawi: Ok, can I just clarify one thing? August 23rd is not a site plan hearing.

McIntyre: No, that's simply what will be called a first reading on the change of zoning. So, if there's a first read given, it starts the process, but we're not off to the races, if you will.

Al-Karawi: Got it. Is that a public hearing?

McIntyre: So, the public hearing is one part. August 23rd is a public meeting, it's a regular meeting, our 7:00 meeting on a Monday night. Before the site plan goes to Council it will go through the Planning Commission for their process and if you want to contact Sara in the City Council office, Sara is the manager of the City Council office and the City Council business, Sara can help link you up with the Planning Department and make sure you stay apprised on the dates of those meetings.

Al-Karawi: Thank you very much.

McIntyre: Vice President Bahr.

Bahr: Just an observation, just based on what we've seen in other cities, there are other instances, looking at this plan, I actually think in the long term, this is actually going to benefit Tony Ba'Lony's, it adds to business.

Al-Karawi: No, I don't doubt that at all.

Bahr: No, I'm not saying it to you, just an observation as I'm looking at even where it situates and the way the traffic is going to come, the type of traffic it's going to draw.

Al-Karawi: I just want to make sure the customers are, yeah.

McIntyre: Councilmember Donovic.

Donovic: Thank you Madam President. I was going to make a brief comment on the last question, to Mr. Taormina. To Vice President Bahr's point, I think this will be a great idea, looking forward to it. You guys take care of your building and the party store to the south hasn't looked very well. So, I think that the new improvements that Speedway is bringing in will uplift that entire area and I do think ultimately, we need more business. However, I have encouraged, because I have seen other Petitioners come before me and there isn't that working relationship it seems like you are having and I think it's great for the future of the site, but also, the future growth and success of both of your businesses, to see both parties working together. At the end of the day, I am assuming, it looks like it's the truth, is that you don't want to take away parking spaces from them, you want to give that portion of the grey area to give them more open space and you are going to have a brand spanking new building next door to you guys. So, I am hoping that this goes forward and that there's some positivity from both parties. Mr. Taormina, with that being said, is there a set back from the north side of the proposed building to their property line? Is there supposed to be a certain amount of feet where no building can be erected, or if ten (10) years from now, they can put a building up or a wall on that property?

Taormina: Yeah, so the ordinance is where commercial abuts commercial is flexible from the standpoint that it could be as little as no setback at all. So, it could be a zero setback to there, to provide certain fire codes on that.

Donovic: So, technically speaking, if a new Petitioner wanted to, they could put a wall right down that property line, technically speaking. Hypothetically.

Taormina: Hypothetically.

Donovic: Ok, thank you Mr. Taormina.

McIntyre: Yes, Councilmember McCullough.

McCullough: Just a general observation, I know this is not obviously the time, but this is just a recommendation and I'm sure you are looking into it. I really do think

that with a new building, if this all goes through, the drive aisle, compared to what you have, I think that you guys will obviously work that out. I know you mentioned bollards and I'm sure the Planning Commission will enjoy the bollard as well. I'm just trying to think innovative for that buffer. I think bollards, I don't know for the separation factor, was that what you were planning originally?

Gaus: It's more of a structural issue if somebody's backing up, we don't want them to hit the building, that's the concern we had, being so close to that lot line. So, with putting pavement in that area, I mean, we can do some things to make it look decorative, we can do lighted bollards, I mean there are things you can do with them to make them look not so intrusive, but still have the structural attempt.

McCullough: Maybe there's an opportunity for them to have a nice buffer, especially for the restaurant as well. Just a side thought, I know bollards, someone is going to run into them and then they don't get painted for years, just an observation I had.

McIntyre: Thank you. All right, so any other comments or any questions from anyone? All right, thank you very much. It is always nice to see a business that needs it being invested in, I'll say that generally, I appreciate Speedway, because you keep your properties up and some of the worst looking properties in Livonia belong to gas stations. I don't mean to single them out, but to me, it always feels like an issue of customer respect, right? If you need gas, you pull up to the service station, it's a mess and there are weeds everywhere and it's dirty, to me, it feels like, well, you know you have to be here, so tough luck if you don't like the fact that we're not taking care of our property. I think especially along the 96 corridor and Merriman is heavily travelled, and at the same time, we love our local businesses, and our local businesses continue to strive, and got through COVID and so it is very nice to see you to working together. I think we can make this positive development. As you can see, we don't just fast walk things, so anyway thank you to both of you for taking the time. You are both so well-educated and able to fill us in on everything. Anything else? That's it? The hearing is closed.

As there were no further questions or comments, the Public Hearing was declared closed at 7:33 p.m.