



**PLANNING DEPARTMENT**

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Westlake, OH 44145

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**WESTLAKE PLANNING COMMISSION  
MINUTES OF THE REGULAR MEETING  
JULY 6, 2020**

Present: Chairman Brad Lamb, Lynda Appel, Lauren Falcone, Duane Van Dyke  
Absent: Phil DiCarlo  
Also Present: Planning Director Jim Bedell, Law Director Michael Maloney, Clerk of Commissions Nicolette Sackman

The regular meeting was called to order at 7:00 p.m. by Chairman Brad Lamb.

**COUNCIL REPORT**

None

**OLD BUSINESS**

**Hallberg Townhouses Development Plan, 28258 Center Ridge Rd., PP#216-14-011, rep. L. Staib, Ward 4 – tabled 5/18/20, 6/1/2020, 6/15/2020**

Mr. Bedell reviewed his staff memo noting the proposal does not require any modifications as it complies with code. The proposal is for two six-unit buildings that are two stories tall with no roof top decks. The Future Land Use Plan identifies this area for medium density (townhouse) residential development. This has been a recommendation of the Guide Plan since 1981. He reviewed the site and buffering, which staff will field verify that it complies, as shown it will provide the required buffering and 60/80 winter/summer opacity. Architect Michael Fant and property owner Pat Greller were present to answer any questions.

Members of the commission reviewed the proposal as revised since the last meeting and noted the change in brick color on the rear elevation is black. They requested that the landscape be field verified to ensure compliance and discussed the fence. The units will sell for \$400,000 to \$500,000.

Findings of fact

1. The proposal meets all zoning code requirements.
2. No modifications are required.

**Motion:** Based upon the findings of fact, Mrs. Falcone moved, seconded by Mr. Van Dyke to recommend approval of the Hallberg Townhomes development plan with the following condition:

1. Condition that the buffering be field verified.
2. Approval is subject to comments in Part III of the 7/2/2020 staff report and approval of the

final plans by the Building and Engineering Departments in compliance with the code and the ordinances of the City of Westlake; and, in the development process, should there be any changes necessitated by engineering requirements that visually alter the appearance of the development approved by the Planning Commission, the plan shall be re-submitted to the Planning Commission.

ROLL CALL ON APPROVAL:

Yeas: Lamb, Van Dyke, Falcone, Appel

Nays: None, motion carried

**Request for Determination of Similar Use at 30855 Center Ridge Rd., rep. M. Kremser, Ward 6, tabled 6/1/20**

See attached transcript from Cleveland Reporting Partners.

**Motion:** Mrs. Falcone moved, seconded by Mr. Van Dyke to table the Determination of Similar Use at 30855 Center Ridge Rd. to the August 3, 2020 meeting.

ROLL CALL ON APPROVAL:

Yeas: Lamb, Van Dyke, Falcone, Appel

Nays: None, motion carried

**Ordinance 2020-73 Conditional Use Permit for a Drive-Thru Restaurant, 25288/25350 Detroit Rd, ref. 6/18/20, Ward 1, tabled 6/29/20**

The applicant requested to be tabled.

**Motion:** Based upon the findings of fact, Mrs. Falcone moved, seconded by Mr. Van Dyke to table Ordinance 2020-73 to August 3, 2020.

ROLL CALL ON APPROVAL:

Yeas: Lamb, Van Dyke, Falcone, Appel

Nays: None, motion carried

**NEW BUSINESS**

**Wyndgate Clusters/Townhomes Development Plan (minor revision for an enclosed patio addition at 2826 Wyndgate Ct.), PP#216-26-324, Rep. S. Madden, Ward 5**

Mr. Bedell reviewed his staff memo noting the proposal is for a four season 270 sf enclosed porch with a 100 sf deck. Since the property is zoned multi-family, it is a revision to a previously approved development plan for Wyndgate Clusters/Townhomes. A modification is needed for the setback encroachment. The applicant's homeowners association has approved the porch and deck. The Lakewood Country Club is the only neighboring property that would be affected by the encroachment. Mr. Madden explained the addition will match the house and they wished to have outdoor space. The deck will be skirted on the bottom to screen the view under the deck.

Findings of fact

1. The proposal requires a minor revision to the development plan and a setback modification.
2. The modification meets performance standards in 1220.06.

**Motion:** Based upon the findings of fact, Mrs. Falcone moved, seconded by Mr. Van Dyke to recommend approval of the Wyndgate Clusters/Townhomes Development Plan (minor revision for an enclosed patio addition) with the following modification and condition:

1. Modification to allow the enclosed porch and deck to encroach into the rear yard setback.
2. Approval is subject to comments in Part III of the 7/2/2020 staff report and approval of the final plans by the Building Department in compliance with the code and the ordinances of the City of Westlake; and, in the development process, should there be any changes necessitated by engineering requirements that visually alter the appearance of the development approved by the Planning Commission, the plan shall be re-submitted to the Planning Commission.

ROLL CALL ON APPROVAL:

Yeas: Lamb, Van Dyke, Falcone, Appel

Nays: None, motion carried

**Westlake Recreation Center Site Improvements (tennis courts), 28955 Hilliard Blvd., PP#216-16-032, rep. B. DeMinico, Ward 4**

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Mr. Bedell reviewed his staff memo for four tennis courts at the Westlake Recreation Center. The courts are to the east of the parking lot for the new Community Services Center. They will be surrounded by a ten foot tall black vinyl coated chain link fence with gates at two locations. The parking lot will be striped for no parking at the location of gates to allow for pedestrian access. A backboard will be installed at the end of court that is the furthest from the neighboring homes (court 1) for practice. This will be installed on the east end of the court to direct the sound towards the Rec Center and away from any residences. There is electrical in the design, but there are no plans to light the courts at this time. The walking trail will be constructed behind the tennis courts. The Guide Plan shows this area as recreational use and the proposal complies with all the zoning codes. Mr. DeMinico noted they plan to screen three sides of the courts.

The following were present and made comments: Laura Lyle, 28710 Weybridge Dr.; Susan Russo, 28846 Weybridge Dr.; Dan Craven, 2065 Farmington Turn (in favor); Saumil Jhaveri, 29280 Regency Place (in favor); Alan Olsen 2917 North Bay Dr. (in favor); and Una Escalas, 29236 Regency Circle. The following was expressed: it was not desirable for the courts to be in the proposed location and questioned if there was other land in the city for these courts; there is a lot of construction behind the residential homes from the community center, future townhomes and the tennis courts which generate too much noise and seems to never end; a lot of the existing trees have died and are damaged; the desire for trees to replace the dead trees; request that more than four courts are constructed such as five or six; with more courts various tournaments can be held which is good for the community; tennis is good for health and fitness; Clague Park does not have enough courts; the desire for lights to be added for evening play; there is a way to install light that would not impact surrounding neighbors; there is a shortage of courts in the city; the bull horns are too loud and should be regulated; there are residential homes adjacent to the recreation center and courts and the residents have to live in their homes and continually hear noise; can the courts be placed on the other side of the property; adjacent home owners were not in favor of lights being installed, which also extends the hours of play; if additional landscape can be installed to buffer view and block the noise from this, as well as the pickle ball courts.

Members of the commission discussed the proposal and it was advised that lights are not being installed as part of the proposal. Due to the current construction of the community center, landscape has not been installed yet and landscape plans for the courts should be submitted to the commission for review. Mr. DeMinico explained other locations on the recreation center property were looked at but based on the location of other sport fields this location was selected. He also advised that city council still has to approve the funds for the courts before they can move forward with any construction. The other courts throughout the city were discussed and tournaments could be held at the Tri-City Park, although a couple of the courts need to be renovated.

Findings of fact

1. The proposal is a permitted use in the R-1F-80 zoning district that is also supported by the Guide Plan's Future Land Use Plan.
2. No zoning conditions or zoning code modifications are necessary.

**Motion:** Based upon the findings of fact, Mrs. Falcone moved, seconded by Mr. Van Dyke to recommend approval of the Westlake Recreation Center Site Improvements (tennis courts).

ROLL CALL ON APPROVAL:

Yeas: Lamb, Van Dyke, Falcone, Appel

Nays: None, motion carried

**Lagrange Subdivision, Replatting (17 lots), Carlton Ave., #217-08-001 to 004, & 006 to 022, & 029-049, rep. K. Hoffman, Ward 6**

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Applicant requested to be tabled.

**Motion:** Mrs. Falcone moved, seconded by Mr. Van Dyke to table Lagrange Subdivision to August 3, 2020.

ROLL CALL ON APPROVAL:

Yeas: Lamb, Van Dyke, Falcone, Appel

Nays: None, motion carried

**The Residences at the Reserve Townhomes, Fee Simple Plat, 30412, 30380, 30304 Center Ridge, PP# 217-22-016, 017, 064, rep. K. Hoffman, Ward 6**

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Mr. Bedell reviewed his staff memo explaining the purpose of the proposal is so that a plat can be recorded creating fee simple title lots. This is to solve past financing issues for individual mortgages as banks want the units to be on lots and not just a unit that is owned on top of commonly owned property. This has become common and a standard for financing in recent years. This plat does not change how the property will be developed or how common areas will be owned or maintained.

Findings of fact

1. This plat is for recording purposes to create fee simple title lots corresponding to the approved townhome units.
2. It does not change the approved development plan for Residences at the Reserve

Townhomes.

**Motion:** Based upon the findings of fact, Mrs. Falcone moved, seconded by Mr. Van Dyke to recommend approval of the Residences at the Reserve fee simple plat for recording purposes.

ROLL CALL ON APPROVAL:

Yeas: Lamb, Van Dyke, Falcone, Appel

Nays: None, motion carried

**MISCELLANEOUS**

None

**ADJOURNMENT**

Meeting adjourned at 8:45 p.m. The next regular meeting is scheduled for Monday, August 3, 2020, in the Westlake City Hall Council Chambers.

\_\_\_\_\_  
Chairman Brad Lamb

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Nicolette Sackman, MMC  
Clerk of Commissions

Approved: \_\_\_\_\_

Audio Transcription  
**Westlake Planning Commission Meeting**

July 06, 2020

In re: Charles Shimola Determination of Similar Use



**Cleveland Reporting Partners, LLC**  
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In re:  
Charles Shimola Determination of Similar Use

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Transcription of Excerpt of Video Recording  
Westlake Planning Commission Meeting

Meeting held on:

July 6, 2020

Transcribed by:  
Cleveland Reporting Partners, LLC  
2012 West 25th Street, Suite 516  
Cleveland, Ohio

Michelle L. Harper, RPR

1 MR. LAMB: Next item on the agenda is the  
2 request for determination of similar use.

3 MR. KREMSEY: Good afternoon, or evening.  
4 Mark Kremser on behalf of Charles Shimola and  
5 Bradcent. Is it okay if Mr. Shimola joins me?

6 MR. LAMB: More than welcome to, yes.

7 MR. KREMSEY: I had made a request to  
8 Ms. Sackman last week, but I just wanted to  
9 confirm that at the end of my remarks, Mr. Shimola  
10 may have something to add, if he would be  
11 permitted to speak, if necessary, as well.

12 MR. LAMB: Yes.

13 MR. KREMSEY: Thank you. I don't know if  
14 the mask is obstructing me, if you have  
15 difficulty --

16 MR. MALONEY: I can hear you.

17 MR. LAMB: Yeah, if you can just talk  
18 closer to the microphone and you should be fine.

19 MR. KREMSEY: Okay. Mr. Shimola's  
20 request is simple. He's not asking to build  
21 anything and he's not asking to modify anything.  
22 He is just asking to be left alone to continue to  
23 use his property as he has for several years.

24 In this instance, we are talking about  
25 the property that he owns at the corner of Center

1 Ridge and Bradley. It's where Wagner's of  
2 Westlake is located with the Bradley Square strip  
3 center. In addition to those operations,  
4 Mr. Shimola, for several years, several local car  
5 dealerships have been leasing space from him where  
6 they are parking new and unlicensed motor  
7 vehicles, and that's why we're here today. How  
8 this works -- does it matter which direction I put  
9 them?

10 MS. APPEL: You'll be able to see in a  
11 minute. He'll zoom in.

12 MR. KREMSER: That's a view from Center  
13 Ridge of the Bradley Square, and all of these  
14 vehicles you see here are unlicensed vehicles.

15 MS. SACKMAN: Excuse me. I'm sorry to  
16 interrupt, but are there two of you speaking?  
17 Because I only can hear Mr. Kremser.

18 MR. KREMSER: Just me.

19 MS. SACKMAN: All right.

20 MR. LAMB: At this point in time, he's  
21 the only one speaking, Nicole.

22 MS. SACKMAN: All right. Thank you.

23 MR. KREMSER: And this is a view from  
24 behind Wagner's Westlake of some of the cars that  
25 are parked behind that facility.

1 I'm not sure that Mr. Shimola even needs  
2 to make a request to this commission. Several  
3 years ago, he addressed this situation with the  
4 then property maintenance officer. He was led to  
5 believe that he could continue to use the property  
6 in this fashion. But recently, Mr. Ward raised a  
7 number of concerns about the property and the use  
8 of the vehicles there, which is why we're here  
9 today.

10 I guess it makes sense to at least  
11 address Mr. Ward's, what those concerns were. My  
12 first observation about Mr. Ward's letter is that  
13 he's not bringing -- he's not raising an issue  
14 about the building or zoning code. What he's  
15 talking about is a traffic code violation,  
16 specifically, junk motor vehicles, which this  
17 particular ordinance prohibits the storage of  
18 dismantled and inoperative vehicles. The entire  
19 code that he's referencing relates to junk cars so  
20 that residents don't operate junkyards in their  
21 yards, and clearly, vehicles that Mr. Shimola has  
22 on Center Ridge Road are not junk or inoperative  
23 cars. They are brand-new vehicles.

24 From my perspective, Mr. Ward's letter  
25 was a ham-handed attempt to crowbar a violation

1 for otherwise lawful conduct. But even  
2 assuming -- even assuming that Mr. Shimola's  
3 conduct somehow runs afoul of this code that  
4 Mr. Ward is referencing, Mr. Ward's letter  
5 fails -- he omits the last paragraph or last  
6 sentence of the code, which provides that the  
7 provisions of this section are applicable to all  
8 districts in the city, except those districts in  
9 which the storage, repair, and rehab of motor  
10 vehicles is expressly permitted.

11 Accordingly, if the junk car ordinance --  
12 I apologize. I can't --

13 MS. APPEL: Go ahead.

14 MR. KREMSER: Steaming up.

15 If the junk car ordinance is indeed  
16 applicable, it prohibits unlicensed vehicles,  
17 except in those districts where such unlicensed  
18 motor vehicles is already permitted.

19 I'd like to -- I'm sure the commission is  
20 familiar with the zone map for the City of  
21 Westlake. I want to address the zoning of  
22 Mr. Shimola's property at the corner of Bradley  
23 and Center Ridge. This is the Wagner's of  
24 Westlake. This is a section that is identified  
25 with a P, for parking, and you'll notice the

1 identification of H, which designates or  
2 identifies that property is zoned for general  
3 business.

4 So if I go back to Mr. Ward's letter, if  
5 he is correct that the ordinance prohibits  
6 unlicensed motor vehicles, it does so except in  
7 those districts in which the keeping of such motor  
8 vehicles is permitted. So it begs the question of  
9 whether unlicensed motor vehicles are permitted in  
10 districts that are designated general business,  
11 and the answer to that is yes.

12 We go down to Center Ridge Road on the  
13 corner of Columbia. We have the Ford AutoNation  
14 dealership, where hundreds and hundreds of new and  
15 unlicensed vehicles are being kept for sale to the  
16 public. And it should come as no surprise that if  
17 we go to the zoning map, AutoNation's land is  
18 identified with an H, meaning it is zoned general  
19 business, the same as Mr. Shimola's.

20 AutoNation is not the only property on  
21 Center Ridge that is used in that fashion. There  
22 is also the Nick Mayer dealership, also on Center  
23 Ridge, where there are new and unlicensed vehicles  
24 as well. And if I were better organized, I'd have  
25 it readily available for you, and I apologize.

1           And like AutoNation, the Nick Mayer  
2 dealership is identified with an H, meaning it is  
3 zoned for general business. But there's  
4 absolutely no difference between the general  
5 business designation for these two dealerships and  
6 how Mr. Shimola's property is designated on the  
7 zoning map.

8           It's our belief that Mr. Shimola  
9 shouldn't have to request relief from the  
10 commission or from the city, but out of an  
11 abundance of caution, that's why we are here,  
12 because of the concerns that Mr. Ward raised, and  
13 that's why we are seeking a similar use permit  
14 pursuant to chapter 1229.01, and that chapter  
15 permits a use of land that is not specifically  
16 designated in the code, but which is similar to an  
17 existing use.

18           Here, the unlicensed vehicles that are on  
19 Shimola's property are identical to the unlicensed  
20 vehicles that are being kept on these other  
21 parcels at AutoNation and Nick Mayer, with the  
22 exception that Shimola has fewer vehicles, he  
23 doesn't generate any customer traffic, so there's  
24 no cars coming in and out taking test drives, and  
25 his vehicles are parked further away from the road

1 and further away from the public's view.

2 I should also add that commercial parking  
3 is a permitted main use in the City of Westlake in  
4 districts zoned general business. Insofar as  
5 these vehicles that we're talking about are not  
6 being operated out on the main roads, there is  
7 virtually no difference between an unlicensed  
8 vehicle and a licensed vehicle that is sitting in  
9 a parking lot.

10 These particular vehicles do not create  
11 any dangers to the public, to the safety or  
12 welfare of the community, they don't create any  
13 noise, they don't create any dust, they don't  
14 create any odor. They are just sitting there in  
15 new and pristine condition. He has ample space  
16 for them and to service the customers who do --  
17 who do come to that business vicinity. He doesn't  
18 need to make any modifications.

19 I'd be remiss if I didn't address the  
20 elephant in the room. That is the long history of  
21 litigation between Mr. Shimola and the City of  
22 Westlake. At the heart of that dispute that went  
23 on for decades was Mr. Shimola's right to use and  
24 enjoy his property. It cost the city and its  
25 taxpayers millions of dollars.

1           A cease-fire was eventually reached, and  
2           a cease-fire has been in place until very recently  
3           when Mr. Shimola's longtime attorney passed away.  
4           Shortly after he was -- he left us, Mr. Ward wrote  
5           his letter, and that's why it's so troubling to me  
6           that these events developed so recently. I think  
7           it would be shortsighted to abandon that  
8           cease-fire right now, so I ask that the city  
9           continue to permit Mr. Shimola to use his property  
10          in this fashion.

11           MR. LAMB: Thank you. Mr. Shimola, would  
12          you like to say anything?

13           MR. SHIMOLA: Yeah, I'd like to take a  
14          couple minutes to address some of the background  
15          and some of the subject matter that we're talking  
16          about tonight.

17           MR. LAMB: If you don't mind, if you  
18          could speak more directly into the microphone so  
19          that we can get it for the minutes.

20           MR. SHIMOLA: Okay.

21           MR. LAMB: Thank you.

22           MR. SHIMOLA: My name is Chuck Shimola.  
23          I've been a resident of Westlake for 70 years,  
24          starting in 1949. I expect to be here for a  
25          couple more decades. The property in question is

1 Wagner's of Westlake, and as Mark mentioned, it's  
2 at the corner of Bradley and Center Ridge. That's  
3 been operating for 55 years. For the last five  
4 years, I've been leasing space for these new  
5 vehicles that park on my ten acres. I believe I  
6 have a right to do that.

7 A brief background of our history here is  
8 I had a number of disputes with the city regarding  
9 activities that the city and I didn't agree on,  
10 and we had numerous court battles and arbitrations  
11 and what have you. And in 1993, the court ordered  
12 that the City of Westlake had to treat me in good  
13 faith in all future dealings.

14 Subsequently, the city didn't do that.  
15 The city continued its illegal and harmful actions  
16 that was contrary to the court order. It admitted  
17 damaging me in the year 2008 after losing a jury  
18 trial and an arbitration hearing. We were about  
19 to go to court again, and the city said they've  
20 had enough and they paid -- during this time, they  
21 paid their lawyers Roetzel & Andress, which had a  
22 partner who was the appointed law director here of  
23 the City of Westlake, Westlake paid them \$4  
24 million to fight me. They subsequently paid me  
25 and admitted the wrongdoings of \$15 million. At

1 that time, I did not proceed against the city for  
2 another \$30 million worth of damages, additional  
3 damages.

4 This current dispute of this parking of  
5 new cars -- which are legal, they're pre-licensed  
6 cars. They don't have to be licensed until a  
7 consumer buys them. So you have basically in a  
8 way of vehicles, you have pre-licensed cars, you  
9 have licensed cars, and you have unlicensed cars.  
10 Unlicensed cars, for whatever reason, the license  
11 may have been run out of time or taken away for  
12 whatever reasons.

13 What I've been accused of and an official  
14 notice of a violation, that's a criminal violation  
15 and I think there's some fines involved, it states  
16 that I have unlicensed vehicles on this property,  
17 which I certainly do, but they are pre-licensed.  
18 They don't have to be licensed, just like the  
19 other three locations here in Westlake. Mark  
20 mentioned AutoNation, the Mercury dealership, Nick  
21 Mayer, and Serpentine Chevy. They all have  
22 unlicensed vehicles on their property. I've had a  
23 discussion with Mr. Mahoney --

24 MR. MALONEY: Maloney.

25 MR. SHIMOLA: Maloney.

1 MR. MALONEY: Come on, Chuck. Come on.

2 MR. SHIMOLA: And that question came up  
3 about why other people are doing this when the  
4 zoning is the same, and I believe the question was  
5 raised by him that it may not be legal for them,  
6 either. Isn't that right?

7 MR. MALONEY: No.

8 MR. SHIMOLA: That's not right?

9 MR. MALONEY: No.

10 MR. SHIMOLA: It is legal for them to do  
11 it?

12 MR. MALONEY: Yes. We've had that  
13 discussion twice.

14 MR. SHIMOLA: Well, we certainly did not  
15 have a discussion that you explained to me why  
16 it's legal for them.

17 MR. MALONEY: Because they're a  
18 franchised auto dealership and --

19 MR. SHIMOLA: And where does it say that  
20 in the zoning code --

21 MR. MALONEY: We read it together.

22 MR. SHIMOLA: -- that it's legal for  
23 them?

24 MR. MALONEY: We read it together,  
25 Mr. Shimola.

1 MR. SHIMOLA: We're here tonight.

2 MR. KREMSER: If I -- can I interrupt?  
3 Were they issued --

4 MR. MALONEY: Well, here, let's let --

5 MR. KREMSER: -- any type of permit?

6 MR. MALONEY: Before we do this, this  
7 isn't a trial. So, Mr. Shimola, proceed. I'm not  
8 the chair. And as soon as he's done, we'll move  
9 on.

10 MR. SHIMOLA: Fine. These cars, once  
11 again, are pre-licensed, and I think it's an  
12 example of hypocrisy and pettiness of this  
13 administration to criminally charge me for junk  
14 vehicles. The code, this code that I've been  
15 cited under, mentions the definition of what  
16 they're talking about: Three years old or older  
17 cars, extensive damage, missing motors, broken  
18 windows, rust, inoperable, and of a value of less  
19 than a thousand dollars.

20 I've had on my property over \$10 million  
21 worth of cars that as a minimum are worth \$20,000.  
22 They are not junk vehicles. In this official  
23 notice, it states -- it quotes the ordinance, and  
24 then it adds, "The above noted parcel is not a  
25 permitted car dealership. Therefore, remove all

1 unlicensed vehicles."

2 This is what we were just talking about.

3 At no place does the zoning code say that a car  
4 dealership can park unlicensed vehicles. And I  
5 believe, Mr. Maloney, you stated that in our  
6 meeting. And I think that this is a little bit of  
7 discrimination. There are those three types of  
8 vehicles that I've mentioned.

9 The city's interpretation of this code  
10 against me devalues my ten acres by at least a  
11 million dollars calculated on a payback of the  
12 income I derive from the lease parking.

13 Now, I expected Mr. Bedell to be here  
14 tonight. Is he normally here?

15 MR. LAMB: He is here.

16 MR. SHIMOLA: Oh, I'm sorry. My glasses  
17 are not that good.

18 Could you tell me, sir, on this 353.06,  
19 "Storage of Inoperative or Unlicensed Motor  
20 Vehicles," the last sentence that says, "The  
21 provisions of this section are applicable to all  
22 districts of the city" --

23 MR. MALONEY: Mr. Chairman, may I?

24 MR. LAMB: Yes, please.

25 MR. MALONEY: Mr. Kremser, as you know,

1 this isn't a back and forth. There are no  
2 questions to be posed to the commission tonight.

3 MR. KREMSER: Can I ask why?

4 MR. MALONEY: Because that's the  
5 procedure. We will hear you out, and then I have  
6 a couple legal questions as soon as Mr. Shimola is  
7 done. But they will not be answering his  
8 questions tonight.

9 MR. KREMSER: You're allowed to ask  
10 questions, but we're not?

11 MR. MALONEY: I am, because of things you  
12 said on the record just now. You and your client  
13 are not on the same page. You and Ms. Wuliger are  
14 not on the same page, just so you know.

15 MR. KREMSER: So you're -- no one's going  
16 to be permitted to answer questions? But we're --

17 MR. MALONEY: I will, and I just answered  
18 you.

19 MR. KREMSER: Well, he asked Mr. Bedell a  
20 question, and you instructed him to remain silent.

21 MR. MALONEY: And I -- I'm advising  
22 Mr. Bedell not to answer, that's correct. I've  
23 said that twice.

24 MR. KREMSER: Okay.

25 MR. MALONEY: And I have questions for

1 you, because you are not on the same page as your  
2 client, and you are not on the same page as  
3 Ms. Wuliger, who spoke to me about this matter,  
4 your partner.

5 MR. KREMSER: That's what you say.

6 MR. MALONEY: That's correct. That's  
7 what I say.

8 MR. LAMB: So, Mr. Shimola, could you  
9 please finish with your comments?

10 MR. SHIMOLA: Finish with my comments?

11 MR. LAMB: Yeah.

12 MR. SHIMOLA: I will.

13 MR. LAMB: Thank you.

14 MR. SHIMOLA: And it will be a couple  
15 more minutes.

16 I expected to ask Mr. Bedell to explain  
17 to me, because I had written him a letter that was  
18 trying to get an answer to these questions, and  
19 Mr. Maloney answered the letter and said I didn't  
20 have a right to get a permit or have these cars.  
21 And --

22 MR. KREMSER: Also, and he said not only  
23 did we not have a right, we didn't have a right --  
24 the city wouldn't even process --

25 MR. MALONEY: Who's speaking?

1 MR. KREMSEY: -- a request.

2 MR. MALONEY: Who's speaking?

3 MR. KREMSEY: This is Mark Kremser.

4 MR. MALONEY: Okay. But is Mr. Shimola  
5 done?

6 MR. SHIMOLA: No.

7 MR. KREMSEY: You specifically said --

8 MR. MALONEY: I don't think he's done.

9 MR. SHIMOLA: No.

10 MR. KREMSEY: -- we didn't even have a  
11 right to request it.

12 MR. MALONEY: I don't think he's done.

13 MR. KREMSEY: Well, I'm not, either.

14 MR. MALONEY: Well, you're interrupting  
15 your own client.

16 MR. SHIMOLA: Well, he's assisting me.

17 MR. MALONEY: Okay.

18 MR. SHIMOLA: That's the reason he's  
19 here.

20 MR. MALONEY: That's up to you two.

21 MR. SHIMOLA: Thank you. If this matter  
22 needs to be litigated by the Wuliger law firm  
23 again, I guarantee you that the city will be  
24 cashing in more of its bonds to compensate me for  
25 this discrimination and bad faith treatment.

1           Now, years ago, I, at one of these  
2 meetings, I think it was a council meeting, I  
3 suggested that the city officials waive their  
4 municipal immunity in these matters so that the  
5 residents of Westlake didn't have to pay for their  
6 errors. I'm doing that again tonight, because the  
7 last time the residents of Westlake had to pay  
8 \$20 million except for whatever insurance  
9 companies picked up for these errors.

10           And I think this is certainly a case that  
11 is putting the city into jeopardy if it doesn't  
12 acknowledge that new cars are at least the same as  
13 having a licensed, used car in the parking lot.  
14 And there is no distinction in the zoning code  
15 that a new car dealership can have unlicensed  
16 vehicles parked on the same zoned property that I  
17 have at Wagner's. I'm done.

18           MR. LAMB: Thank you very much. I think  
19 before we proceed, I think that one thing that we  
20 would probably want as a commission is a legal  
21 opinion from our law department concerning this  
22 matter, so I would think that we would want to  
23 table this item to our August meeting.

24           But with that said, if any commission  
25 members have any questions with regards to this as

1 a fact-finding situation.

2 MR. MALONEY: May I ask, Mr. Chairman --

3 MR. LAMB: Sure.

4 MR. MALONEY: -- there is a lack of  
5 clarity as to what Mr. Shimola is seeking.

6 Mr. Kremser, you started your  
7 presentation with "I'm not sure we have to be here  
8 tonight."

9 MR. KREMSER: Well, I don't think he  
10 does. I think he's --

11 MR. MALONEY: Okay, so are we done?

12 MR. KREMSER: -- permitted to use it --

13 MR. LAMB: Sir --

14 MR. KREMSER: -- he should be  
15 permitted --

16 MR. LAMB: Sir --

17 MR. KREMSER: -- to use his property.

18 MR. LAMB: Sir, with due --

19 MR. KREMSER: But out of an --

20 MR. LAMB: Sir, with due respect --

21 MR. MALONEY: Could you not interrupt?  
22 You're the lawyer.

23 MR. KREMSER: I apologize.

24 MR. LAMB: Please. If you listened to  
25 the beginning of the program, we asked for people

1 to speak one at a time because the minutes are  
2 being taken, and we can't have this back and forth  
3 like this, okay?

4 MR. KREMSEY: I understand. I apologize.

5 MR. LAMB: Thank you very much.

6 MR. MALONEY: But, Mr. Kremser, I'm  
7 asking whether you started your presentation with  
8 you're not sure your client has to be here. I  
9 thought that's what you said. Is that what you  
10 said?

11 MR. KREMSEY: I did say that, because --

12 MR. MALONEY: Okay. Do you mean that?

13 MR. KREMSEY: -- I don't think --

14 MR. MALONEY: Do you mean that?

15 MR. KREMSEY: Out of an abundance of  
16 caution, we put in a request for the similar use  
17 permit. We ask that that be ruled on.

18 MR. MALONEY: Okay. So you are in front  
19 of this commission -- this is important --

20 MR. KREMSEY: Yes.

21 MR. MALONEY: You are in front of this  
22 commission for a similar use permit?

23 MR. KREMSEY: Correct.

24 MR. MALONEY: Okay. That's all I wanted  
25 to know, because that's not what you started

1 saying with your presentation.

2 Mr. Shimola, is that correct?

3 MR. KREMSEY: Well, I think you know what  
4 I was saying.

5 MR. MALONEY: You want a similar use  
6 permit to keep unlicensed vehicles at Wagner's,  
7 correct?

8 MR. SHIMOLA: That's correct.

9 MR. MALONEY: Okay. It's that simple.  
10 That's all I wanted to know. You have not been  
11 cited for any activity at your property, have you?

12 MR. SHIMOLA: I haven't been.

13 MR. MALONEY: Okay.

14 MR. KREMSEY: Well, he was threatened  
15 with a citation.

16 MR. MALONEY: From November of last year?

17 MR. KREMSEY: Correct.

18 MR. MALONEY: Are the cars still there,  
19 Mr. Kremser?

20 MR. KREMSEY: There are cars still there.

21 MR. MALONEY: Yes, they are. Has he been  
22 taken to court by the law director? That would be  
23 me.

24 MR. KREMSEY: Are you promising that you  
25 won't do so?

1 MR. MALONEY: Has it happened? You're  
2 acting like the city -- you said Mr. Shimola wants  
3 to be left alone. Did you say that?

4 MR. KREMSER: I did.

5 MR. MALONEY: Have we cited him for these  
6 cars?

7 MR. KREMSER: Not since he got legal  
8 representation to intervene on his behalf.

9 MR. MALONEY: Did we cite him before you  
10 became involved, sir? The letter was last year.

11 MR. KREMSER: And we got involved shortly  
12 thereafter.

13 MR. MALONEY: Okay.

14 MR. KREMSER: You gave him -- the letter  
15 gave him ten days.

16 MR. MALONEY: And what's happened since?

17 MR. KREMSER: He got legal counsel and  
18 you backed off.

19 MR. MALONEY: Oh, okay. All right.  
20 Regardless of what you think or why you think it  
21 happened, your client hasn't been cited for these  
22 cars.

23 MR. KREMSER: You are 100 percent  
24 correct, sir.

25 MR. MALONEY: Okay.

1 MR. KREMSEY: And are you making a  
2 representation and promise that he can continue to  
3 park there? We'll withdraw the request.

4 MR. MALONEY: It's up to you how to  
5 proceed with the request, but you made an  
6 allegation you want to be left alone.

7 MR. KREMSEY: He does.

8 MR. MALONEY: And we haven't been  
9 bothering you.

10 MR. KREMSEY: Are you saying that the  
11 city will leave him alone? It's not a hard  
12 question, either.

13 MR. MALONEY: It depends on his conduct.

14 MR. KREMSEY: What does that mean?

15 MR. MALONEY: It's simple. Mr. Shimola,  
16 we haven't cited you for any of these cars, or  
17 have we?

18 MR. SHIMOLA: Well, I take this official  
19 notice saying I've got ten days or else we are  
20 going to court --

21 MR. MALONEY: And?

22 MR. SHIMOLA: -- as a citation.

23 MR. MALONEY: And?

24 MR. SHIMOLA: And --

25 MR. MALONEY: It's been way over ten

1 days.

2 MR. SHIMOLA: And we've had meetings to  
3 talk about it, and I think I'm hearing that maybe  
4 we're going to postpone this that's been going on  
5 now for six or seven months. This is an  
6 imperfection as to the value of my property. If I  
7 go to sell that property today, I have to say I'm  
8 under a citation that you can't do what I've been  
9 doing for five years.

10 MR. MALONEY: You haven't been cited,  
11 Mr. Shimola.

12 MR. SHIMOLA: Pardon me?

13 MR. MALONEY: You haven't been cited.  
14 Plain and simple. You have not been cited and you  
15 are still storing the cars. You and I met on this  
16 several times.

17 MR. SHIMOLA: Okay. And you were a  
18 perfect gentleman when we met.

19 MR. MALONEY: Thank you. Maloney, with  
20 an L.

21 MR. SHIMOLA: Yeah, I'm going to try to  
22 remember that.

23 MR. KREMSEY: He corrected himself.

24 MR. MALONEY: All right. So for clarity,  
25 we're here about a similar use permit; that's it?

1 MR. KREMSEY: That is correct.

2 MR. MALONEY: Okay.

3 MR. KREMSEY: But if you're saying that  
4 the city is not going to issue a citation, we can  
5 possibly withdraw it.

6 MR. MALONEY: Stay tuned. That might  
7 happen. Anything else?

8 MR. SHIMOLA: That's it.

9 MR. KREMSEY: No, thank you.

10 MR. LAMB: With that, would you be open  
11 to commission members asking any questions that  
12 they may have with regards to this, knowing that  
13 we won't make any decision this evening, but we  
14 will be waiting for legal?

15 MR. KREMSEY: Although we're not  
16 permitted to ask any of the members questions?

17 MR. LAMB: Well, none of the members of  
18 the -- I mean, I don't know that there's anything  
19 for us to answer at this point in time. I mean,  
20 we're asking the questions of you that you  
21 submitted a similar use, so --

22 MR. MALONEY: And, Mr. Chairman, I'm  
23 sorry. The answer, Mr. Kremser, obviously, is no.  
24 You've threatened litigation as you stand here.  
25 You're threatening to sue us. No, I will not let

1 this commission answer your questions. You know I  
2 won't. You've threatened to sue us, for millions  
3 of dollars, by the way.

4 MR. SHIMOLA: Right.

5 MR. MALONEY: Why would I let them answer  
6 your questions at this hearing? You're  
7 threatening to sue us.

8 MR. KREMSER: In the interest of honesty,  
9 of being forthcoming.

10 MR. SHIMOLA: You're in the wrong place,  
11 Mark.

12 MR. KREMSER: Apparently.

13 MR. MALONEY: That's a true --  
14 Mr. Shimola, you are correct, sir. You are  
15 correct.

16 MR. SHIMOLA: Thank you. I've known that  
17 for about 30 years.

18 MR. MALONEY: I mean this isn't the  
19 forum. I don't mean this is the wrong city.

20 MR. LAMB: So, Mr. VanDyke, do you have  
21 any questions for this item for this evening?

22 MR. VANDYKE: Not at this moment.

23 MR. LAMB: Councilwoman?

24 MS. APPEL: No, thank you.

25 MR. LAMB: Ms. Falcone?

1 MS. FALCONE: I want to know how many  
2 cars are there. How many cars?

3 MR. SHIMOLA: It varies. It could be  
4 maybe a hundred to up to maybe 500.

5 MS. FALCONE: That's all I wanted.  
6 Thanks.

7 MR. LAMB: So with that said, we will go  
8 ahead and table this and ask the law department  
9 for an opinion with regards to this item.

10 Do I have a motion?

11 MS. FALCONE: I move to table request for  
12 determination of similar use to our August 3rd  
13 planning commission meeting pending legal counsel  
14 advice.

15 MR. LAMB: Thank you.

16 MR. VANDYKE: Seconded by VanDyke.

17 MR. LAMB: Please call the roll.

18 MS. SACKMAN: VanDyke?

19 MR. VANDYKE: Yes.

20 MS. SACKMAN: Falcone?

21 MS. FALCONE: Yes.

22 MS. SACKMAN: Lamb?

23 MR. LAMB: Yes.

24 MS. SACKMAN: Appel?

25 MS. APPEL: Yes.

1 MS. SACKMAN: Motion carries.

2 MR. LAMB: Great. Thank you very much.

3 MR. MALONEY: Gentlemen, have a good  
4 evening.

5 MR. KREMSER: Thank you for your time.

6 MR. LAMB: Thank you.

7 (End of requested transcription.)

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CERTIFICATE

I, Michelle L. Harper, do hereby certify that as such Reporter I took down in Stenotypy all of the proceedings had in the foregoing transcript; that I have transcribed my said Stenotype notes into typewritten form as appears in the foregoing transcript; that said transcript is the complete form of the proceedings had in said cause and constitutes a true and correct transcript therein.



Michelle L. Harper, Notary Public  
within and for the State of Ohio

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