



**PLANNING DEPARTMENT**

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**WESTLAKE PLANNING COMMISSION  
MINUTES OF THE REGULAR MEETING  
AUGUST 3, 2020**

Present: Chairman Brad Lamb, Lynda Appel, Lauren Falcone, Duane Van Dyke, (4 members due to a vacant position)  
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.

**APPROVAL OF MINUTES**

Mrs. Falcone moved, seconded by Mr. VanDyke to approve the minutes of the regular meeting of June 29, 2020.

ROLL CALL ON APPROVAL:

Yeas: Lamb, Falcone, Appel, Van Dyke

Nays: None, motion carried

**COUNCIL REPORT**

Mrs. Appel reported council is on recess until September.

**OLD BUSINESS**

**Ordinance 2019-76 rezoning south side of Center Ridge Rd west of Crocker Rd., PP#217-26-012 & 007, from R-1F-80 District to R-MF-24 District, ref. 5/17/19, rep. P. Vincent, Ward 6 – tabled 6/3/19, 7/1/19, 8/5/19, 9/9/19, 10/7/19, 11/11/19, 12/2/19, 2/3/2020, 3/2/20, 5/11/20, 5/18/20, 6/1/20 tabled to 8/3/20 meeting; 90-day extension of time (expires 8/29/2020)**

**Motion:** Mrs. Falcone moved, seconded by Mr. Van Dyke to recommend a 90-day extension of time (to expire 11/27/20) for Ordinance 2019-76.

ROLL CALL ON APPROVAL:

Yeas: Lamb, Van Dyke, Falcone, Appel

Nays: None, motion carried

**Motion:** Mrs. Falcone moved, seconded by Mr. Van Dyke to table Ordinance 2019-76 to the September 14, 2020 meeting.

ROLL CALL ON APPROVAL:

Yeas: Lamb, Van Dyke, Falcone, Appel

Nays: None, motion carried

**Charles Shimola Request for Determination of Similar Use at 30855 Center Ridge Rd., rep. M. Kremser, Ward 6, tabled 6/1/20, 7/6/20**

See attached transcription.

Findings of fact

1. Traffic code pursuant to WCO Sections 353.06 and 353.07, it is illegal to store unlicensed automobiles outdoors at this location.
2. Under the zoning code part of applicant's property is zoned General Business, and part of applicant's property is zoned as an Automobile Parking District.
3. Only licensed automobiles are permitted to park outdoors at a commercial parking facility pursuant to WCO Section 1216.03(g)(8).
4. Commercial parking facility as the term is used in WCO Section 1216.03(g)(8) does not include the storage of unlicensed automobiles.
5. As to WCO Section 1229.01(a), the Commission finds that the storage of unlicensed automobiles is permitted in another classification of permitted uses, that being under 1216.03(d)(3), "Sale of new automobiles and new car rental agency."
6. As to WCO Section 1229.01(b), the Commission finds that the storage of unlicensed vehicles is not more appropriate, nor does it conform more closely to the basic characteristics of the classification to which it is proposed to be added, (that being commercial parking facility) than to any other classification (that being automobile dealership.)

**Motion:** Based upon the findings of fact, Mrs. Falcone moved, seconded by Mr. Van Dyke to recommend council amend the zoning code to permit the storage of unlicensed automobiles as similar to commercial parking facilities for licensed automobiles.

ROLL CALL ON APPROVAL:

Yeas: None

Nays: Lamb, Van Dyke, Falcone, Appel, motion failed

**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, 7/6/20**

Mr. Sampat, architect, reported that a traffic study was submitted for review. Stacking issues for the left turn lane can be resolved as well as widening the curb cuts. The drive-thru lane can be widened into the



egress with an angle, which will be discussed with Director of Engineering Bob Kelly. This would add a left turn lane and angle the stacking lane, which would allow a three car stack. He reviewed the parking and drive thru layout.

Mr. Bedell reviewed his staff memo noting Bob Kelly reviewed the traffic study and provided the following comment: "According to the traffic study the eastbound left turn lane going into Dunkin Donuts must be installed.

*In order to obtain proper turn lane Detroit Rd must be widened. Along the right-of-way on the Northside then restriped to obtain the proper turn lane. As Directed by the City Engineer."* Mr. Bedell explained the peak hours are from 8 am to 9 am and 5 pm to 6 pm. The traffic study indicated that "traffic can be accommodated without adversely impacting the area roadway network." The study noted that an exclusive left turn lane on Detroit Road at the Dunkin Donuts entrance only drive is warranted and the site driveway should be located "as far east as possible so vehicles can utilize a portion of the shared left-turn lane on Detroit to queue while waiting to turn left into the proposed Dunkin Donuts driveway. The City Engineer has requested a condition of approval relative to this. He advised that the plans shown are conceptual only and if approved, a development plan would be required. He reviewed the lot width, setbacks, parking requirements, and off street stacking. Mr. Bedell questioned opening hours, which were 5 am, and advised a modification is required since opening is earlier than 6 am.

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Members of the commission discussed the proposal with Mr. VanDyke not in support of the request based on the lot size and layout configuration. His concerns were: to be approved certain thresholds for the proposal do not comply; traffic congestions and issues with left turns due to traffic and back up due to stacking in the drive thru lane.

Mr. Dan White, 24756 Detroit Rd. stated there are a lot of congestion problems now at this intersection and the proposed use would cause further congestion, especially related to left turns.

#### Findings of fact

1. The standards for evaluating conditional permits in Section 1227.03(b) have been met except for (6) regarding “the concentration of vehicles in connection with proposed use shall not be more hazardous or dangerous than the normal traffic of the district.” This is an issue at this location for the following reasons:
  - a. The lot is less than 250’ in width at the front setback, as required by code, and this width was established in order to provide a safe distance between restaurants for traffic management.
  - b. This use generates more traffic than the former bank or other potential financial or office uses during peak traffic hours that are also peak traffic hours for the nearby Detroit Road/Columbia intersection and will also be open for longer hours and on nights and weekends.
2. Section 1227.03 (c) Safeguards and Conditions, allows the city to approve safeguards and conditions “in the permit in addition to the general standards set forth in subsection (a) and (b) herein”. In accordance with the Traffic Study, the City Engineer requires that “the eastbound left turn lane going into Dunkin Doughnuts must be installed. In order to obtain proper turn lane Detroit Rd must be widened. Along the right-of-way on the Northside then restriped to obtain the proper turn lane. As Directed by the City Engineer.” The conceptual plan should be redrawn to indicate how this changes parking in front of the building.
3. There are a number of setback modifications shown on the conceptual plan that will need to be addressed during the development plan process, should this conditional use permit be approved.

**Motion:** Based upon the findings of fact, Mrs. Falcone moved, seconded by Mr. Van Dyke to recommend approval of Ordinance 2020-73 with the following modification and conditions:

1. Modification from Section 1216.05 is granted to permit a minimum lot width of 140’ at the front setback line.
2. Modification is granted for a 0’ setback for the parking spaces on the west side of the parking lot.
3. Modification for hours for the drive-in/drive-thru restaurant or food service window, outside order, outside pickup or speaker, etc. to begin at 5:00 a.m.
4. Condition that an assembly plat will be submitted to the Planning Commission for approval along with the development plan.
5. Condition that the eastbound left turn lane going into Dunkin Donuts must be installed by Dunkin Donuts and, in order to obtain a proper turn lane, Detroit Road must be widened by Dunkin Donuts along the right-of-way on the north side of Detroit Road then restriped to obtain the proper turn lane, as directed by the City Engineer with final Engineering Department approval subject to the review of the completed drawings and details.
6. Condition that only one building be constructed on the property.

ROLL CALL ON APPROVAL:

Yeas: Lamb, Falcone, Appel

Nays: Van Dyke, motion carried

**Lagrange Subdivision, Replatting (17 lots), Carlton Ave., #217-08-001 to 004, & 006 to 022, & 029-049, rep. K. Hoffman, Ward 6, tabled 7/6/20**

**Motion:** Mrs. Falcone moved, seconded by Mr. Van Dyke to table the Lagrange Subdivision Replatting to the September 14, 2020 meeting.

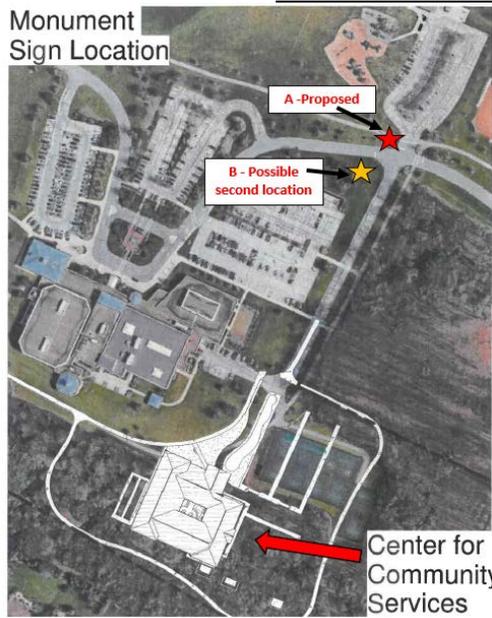
ROLL CALL ON APPROVAL:

Yeas: Lamb, Van Dyke, Falcone, Appel

Nays: None, motion carried

**NEW BUSINESS**

**Westlake Community Services Center Sign Plan, 28975 Hilliard Blvd., PP#217-06-033, rep. B. Kelly, Ward 6**



City Engineer Jim Smolik reviewed the proposal for a monument sign and wall sign for the new Community Services Center. The architecture of the monument sign will match the building with old Detroit brick and sandstone, and is similar in design to the Westlake school signs. He reviewed the location for both signs and explained the monument sign is being proposed at the entrance driveway circle between the walking path and the driveway near the playground. They looked at two locations and need further review regarding which location will be best and will make that determination administratively after planning commission's approval.

Mr. Bedell reviewed his staff memo explaining the proposed location for the monument sign (A) would require an arrow to direct visitors down the drive for the community center. He suggested the placement of the second location (B) with the sign on a 45 degree angle to the intersection with a single face, as it is on the same side of the street as the community

center. The 8'10" height of the monument sign would need a 2'10" height modification, as would the size of the electronic message center that is permitted to be 33% of the sign face and is proposed to be 38.7%, and the area of the sign at 41.33 sf (24 sf is permitted in single family districts). He explained this sign is internal to the site, not visible from city streets and is a unique property compared to other properties in the city. As proposed it is very similar in design to the school signs as Mr. Smolik stated. Mr. Bedell also noted that Service Director Paul Quinn was concerned with location A as it is adjacent to a water main, which could become problematic. Mr. Smolik explained, as part of the construction for the new community center, the water line will be replaced. Mr. Bedell reviewed the wall sign which is in proportion to the building, although it is oversized.

Members of the commission reviewed the details of the proposal and all agreed that location B is preferred for the monument sign location. The wall sign was discussed that the font is similar to the recreation center but would like to see the city seal to also be located on the building similar to the recreation center signage. Mr. Smolik advised the intent of the wall sign was to look different and unique from the recreation center and the city seal was not being use due to that purpose. It was suggested to look at a possible location for the city seal.

Findings of fact:

1. This is a unique circumstance, as this is an institutional use in the R-1F-80, One Family

- Residential District and the signage is inward facing and not expected to be visible off-site.
2. The monument sign is larger than permitted for institutional uses in residential districts and requires modifications for the size of the sign, the percentage that is the EMC, the height of the sign and setback from the roadway. If this property had business zoning the following regulations would apply, allowing a monument sign of slightly less than the proposed square footage: 1223.04(h) "For large multi-tenant office and retail buildings, exceeding 30,000 sf and 3 acre parcel, one ground sign may be 40 sq. ft. in area. In addition, for large business or industrial developments with 800 feet of frontage on one or more nonfreeway streets, Planning Commission and Council approval is required to allow one primary freestanding sign up to forty square feet sign area per side and additional secondary freestanding signs up to thirty square feet area per side. The maximum number of signs not to exceed one per each driveway entrance."
  3. The Service Director has concerns regarding the adjacency of a water main that will need to be addressed at the meeting in order to approve it at this location.
  4. The wall signage is slightly over the allowed height and square footage, but modifications are warranted in accordance with Section 1223.10, as the proposed signs "...complement the building and adjacent buildings by being designed and placed to enhance the architecture. The sign shall reflect the primary purpose of identifying the name and type of establishment".

**Motion:** Based upon the findings of fact, Mrs. Falcone moved, seconded by Mr. Van Dyke to approve of the Westlake Community Services Center sign plan with the following modifications and conditions:

1. Modification for the front wall sign to be 31.78 s.f. and 23.5' above the finished grade and the side wall sign to be 21' above the finished grade.
2. Modification for the monument sign to be 41.33 s.f. with the electronic message center 38.7% and the height to be 8'-10".
3. A modification to permit an internally illuminated sign (electronic message center) in a residential district.
4. Condition that the monument sign is repositioned to be 10' from the Rec. Center Drive.
5. Condition that one color is to be used at a time for the electronic message center with the background of the digital portion to be black as shown and be operated so that the message is static, with no scrolling or flashing or any movement or animation of any kind except that the message can change once every 24 hours.

ROLL CALL ON APPROVAL:

Yeas: Lamb, Van Dyke, Falcone, Appel

Nays: None, motion carried

**Motion:** Based upon the findings of fact, Mrs. Falcone moved, seconded by Mr. Van Dyke to amend the motion to include:

1. Approval is subject to comments in Part III of the 7/29/2020 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 sign 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

**Paws & Effect Lot Assembly, 24864 Detroit Rd., PP# 213-09-028 & 036, rep. J. Stefan, Ward 1**

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Mr. Stefan was present to answer any questions. Mr. Bedell reviewed his staff memo explaining the development is on two parcels and a condition of approval for the development plan was to assemble the two parcels.

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Mr. Dan White, 24756 Detroit Rd. explained he is the next door neighbor and made comments relative to the previously approved development plan and his displeasure that it was approved without his knowledge. It was noted by Mr. Stefan that notification was given in 2017 when his proposal came before the commission.

Findings of fact

1. This lot assembly is a standard requirement for development plans on multiple parcels.
2. No legal non-conformities are created because of this action.

**Motion:** Based upon the findings of fact, Mrs. Falcone moved, seconded by Mr. Van Dyke to approve the Paws & Effect lot assembly involving permanent parcel numbers 213-09-028 & 036 with the conditions that approval is subject to comments in Part III of the 7/30/2020 staff report.

ROLL CALL ON APPROVAL:

Yeas: Lamb, Van Dyke, Falcone, Appel

Nays: None, motion carried

**LTL Property Ltd. Site Improvements (parking lot), 26220  
Center Ridge Rd., PP#213-20-032, rep. A. DiFranco, Ward 2**

Mr. DiFranco explained there was an area of overgrown grass/weeds and dead trees, adjacent to the north and west property lines, which were removed and replaced with gravel. This area is not part of the parking lot, has no base underneath, and cannot be used for parking. It is maintained so there are no weeds and he will plant trees and landscape.

Mr. Bedell reviewed his staff memo explaining the zoning codes require screening to buffer adjacent single family property. Discussion ensued regarding the placement of landscape and trees at the rear of the property, as well as a suggestion to consider planting trees in the front of the building to add shade and greenery. The commission directed Mr. DiFranco to submit a landscape plan to Mr. Bedell for administrative review and approval.

Findings of fact

1. The stone aggregate is not a typical landscaping material. It could be easily used for parking. Parking lots have to be paved of a hard surface, such as concrete or asphalt and designed to City standards. The applicant has expressed that this area is not to be used for parking. If approved, a condition of approval should be that it is not used for parking.
2. According to 1237.02, EXPLANATION OF TERMS, (b) Compatibility. A design or a material/color selection is compatible when it does not strongly deviate from its parent building, or the overall character of the neighborhood. To be compatible does not require look alike designs, but rather designs that reflect some aspects of its parent building or buildings in the general vicinity, such as scale of windows, overhangs, building materials, patterns of siding, roof slope. Conversely, incompatibility occurs when an architectural design, landscape design or accessory building proposal is aesthetically harsh or overwhelming relative to its neighbors.
3. The Planning Commission will need to determine whether the stone aggregate is “aesthetically harsh” and incompatible. This property is bordered by other office buildings and a parking lot. There is one residential property approximately 82’ northwest of this site that has a clear view of the back of the building that did not exist prior to the removal of the vegetation. Since the home does not directly abut the site (due to the parking lot separating them), there is no requirement that a buffer be provided.
4. It is impossible to know if the site met the tree preservation requirements prior to removal of vegetation but it clearly does not meet requirements now and if this is approved, a condition of approval should be to plant the appropriate number of trees. If evergreens are planted near the

property line, this could do double duty by screening the view of the rear of the property from the adjacent home, parking lot and Canterbury Road. A row of Green Giant Arborvitae (they are actually white cedars and may be counted as trees) along the north property line (in the area of the stone aggregate) would satisfy this requirement. It is recommended that a staggered row be planted 6' on center to allow for optimum growth and health. A total of 5 could be planted along the north property line and 9 along the west property line. Other suitable evergreen trees could be used as well.

**Motion:** Based upon the findings of fact, Mrs. Falcone moved, seconded by Mr. Van Dyke to approve LTL Property Ltd. Site Improvements with the following conditions:

1. With a landscape plan to be submitted to Mr. Bedell with buffering adjacent to the north and west property lines to be approved administratively.
2. The area not be used for parking.

ROLL CALL ON APPROVAL:

Yeas: Lamb, Van Dyke, Falcone, Appel

Nays: None, motion carried

### **Legacy Café and Lounge Site Improvements (siding), 673 Cahoon Rd., PP#213-20-032, rep. Hamdan, Ward 3**

Mr. Hamdan explained the stucco and wood on the building had deteriorated. When the business was shut down due to COVID they spent time replacing the materials and were limited to what was available at

Exterior prior to siding



Exterior with siding



Home Depot due to COVID restraints and very limited available materials at the time.

Mr. Bedell reviewed his staff memo and noted the east and north side of the building was not covered in metal siding. Two existing windows were covered and he questioned if they were functioning windows. Mr. Hamdan advised that they were but were always blocked by interior shades. This area of the interior is used as a study area.

Mr. Bedell explained that the aluminum corrugated metal siding used is not permitted in accordance with Chapter 1137. It was questioned if the panels had any type of covering so prevent sun from reflecting off the surface. Mr. Hamdan stated at certain angles it may be but it is not reflective like chrome would be. He further explained the repairs were not done for

cosmetic reasons but to address the deterioration in certain locations and the entire building was not refaced. There were no other material options at the time.

Members of the commission discussed the proposal and that there are design standards, which must be followed. It was questioned why the stucco was not repaired. Mr. Hamdan reiterated the challenges due to limited materials and the repairs are not permanent but just temporary, and the metal siding is not what he

had desired. The applicant was advised that the windows he covered need to be uncovered and questioned what the temporary timeframe was. Mr. Hamdan stated he was stuck due to the current COVID situation and it was hard for him to say how long the metal siding would stay in place but he was hoping it would only be for two to three months. Mr. Hamdan was advised by the commission to submit plans showing improvements according to the design guidelines and to have them for the next planning commission meeting in September.

**Motion:** Based upon the findings of fact, Mrs. Falcone moved, seconded by Mr. Van Dyke to table the Legacy Café and Lounge Site Improvements to the September 14, 2020 meeting.

ROLL CALL ON APPROVAL:

Yeas: Lamb, Van Dyke, Falcone, Appel

Nays: None, motion carried

**MISCELLANEOUS**

Mr. Bedell and members of the commission commended Mr. DiCarlo's time on the commission, the value and knowledge that he brought to the commission and the city. They expressed that he will be missed. *Note: Mr. DiCarlo resigned due to time restraints.*

**ADJOURNMENT**

Meeting adjourned at 9:21 p.m. The next regular meeting is scheduled for Monday, September 14, 2020, in the Westlake City Hall Council Chambers.

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Chairman Brad Lamb

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Nicolette Sackman, MMC  
Clerk of Commissions

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

WESTLAKE PLANNING COMMISSION

**Westlake Planning Commission Meeting**

August 03, 2020

In re: Charles Shimola Determination of Similar Use



**Cleveland Reporting Partners, LLC**

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WESTLAKE PLANNING COMMISSION

In re:

Charles Shimola Determination of Similar Use

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Westlake Planning Commission Meeting

Meeting held on:

August 3, 2020

Reported by:

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

Todd L. Persson, Notary Public

1 MR. LAMB: That now brings us to your  
2 request for determination of similar use at 30855  
3 Center Ridge Road.

4 MR. KREMSER: Good evening.

5 MR. LAMB: The floor is yours, sir.

6 MR. KREMSER: My name is Mark Kremser.  
7 I'm here on behalf of Bradcent Limited Liability  
8 Company and Charlie Shimola.

9 MR. LAMB: Great.

10 MR. KREMSER: This matter was  
11 previously -- we discussed this at the last  
12 meeting, and it was tabled for Mr. Maloney to  
13 render a legal opinion, so I'm hear to take care  
14 of that.

15 MR. LAMB: Okay. Thank you. Is there  
16 anything new that you wish to add?

17 MR. KREMSER: No, thank you.

18 MR. LAMB: Thank you. Mr. Bedell?

19 MR. BEDELL: Mr. Maloney?

20 MR. MALONEY: Will you be making your  
21 statement there, or taking the podium? I didn't  
22 ask you that. Sorry.

23 MR. BEDELL: I am -- I think that's --  
24 whatever would be more appropriate. I don't --  
25 here is fine. It's up to you.

1 MR. MALONEY: That's fine. Okay. We're  
2 going to swear in Mr. Bedell before he makes his  
3 presentation, Mr. Chairman.

4 Jim Bedell, do you swear that the  
5 comments and statements you'll make to the  
6 Commission this evening will be the truth, the  
7 whole truth, and nothing but the truth, so help  
8 you God?

9 MR. BEDELL: I do.

10 MR. MALONEY: Okay. Go right ahead.  
11 Thank you.

12 MR. BEDELL: The applicant is storing  
13 unlicensed automobiles outdoors on his property at  
14 the southwest corner of Bradley Road and Center  
15 Ridge Road. The following is from the Traffic  
16 Code. Pursuant to Westlake Codified Ordinances  
17 sections 353.06 and 353.07, it is illegal to store  
18 unlicensed automobiles outdoors.

19 Under Section 353.06 of the Traffic Code  
20 of the City of Westlake, unless otherwise  
21 permitted in the district as set forth in the  
22 Zoning Code, unlicensed automobiles shall not be  
23 stored on the property for more than 10 days  
24 unless located within an enclosed building.

25 Under Section 353.07 of the Traffic Code

1 of the City of Westlake, motor vehicles without  
2 lawful authority shall not be permanently or  
3 temporarily stored or allowed to remain on a  
4 property unless kept within a building.

5 Now from the Zoning Code; part of the  
6 applicant's property is zoned general business,  
7 and part of the applicant's property is zoned as  
8 an automobile parking district. Applicant's main  
9 uses of part of the property zoned general  
10 business are permitted by Westlake -- Westlake  
11 Code of Ordinances Section 1216.03 G18; service  
12 and consumption of food and all beverages on the  
13 premises within an enclosed building on the  
14 premises and -- I'm going to say "WCO" for  
15 short -- Section 1216.03 C, retail sales in  
16 enclosed buildings.

17 WCO 1214.03, which establishes the uses  
18 permitted in automobile parking districts allows  
19 open enclosed automobile parking facilities for  
20 permitted uses in adjacent business districts, but  
21 does not permit dead storage or sales of vehicles.

22 Commercial parking facilities for  
23 licensed automobiles is a permitted use in general  
24 business districts pursuant to WCO Section 1216.03  
25 G8. Only licensed automobiles are permitted to

1 park outdoors at a commercial parking facility  
2 pursuant to WCO Section 1216.03 G8.

3 Commercial parking facility as the term  
4 is used in WCO Section 1216.03 G8 does not include  
5 the storage of unlicensed automobiles. Off-street  
6 parking facility means an open or enclosed area,  
7 in parenthesis, (garage), accessible from a public  
8 street or drive used only for parking automobiles  
9 of owners, occupants, employees, customers or  
10 tenants of the main use. Off-street parking does  
11 not include storage of automobile -- automobiles  
12 pursuant to WCO Section 1203.05 E. Off-street  
13 parking facilities are an access for use regulated  
14 by Chapter 1221 pursuant to WCO Section 1216.03  
15 H12. Off-street parking facilities must be  
16 located on the same lot as the main use served in  
17 all business districts pursuant to WCO Section  
18 1221.08 C. Part of the off-street parking  
19 facility established for the 1216.03 main uses is  
20 also being used for the storage of unlicensed  
21 automobiles.

22 As to WCO Section 1229.01 A, the  
23 Commission finds that the storage of unlicensed  
24 automobiles is permitted in another classification  
25 of permitted uses, that being under 1216.03 D3,

1 sale of new automobiles and new car rental agency.

2 As to WCO Section 1229.01 B, the  
3 Commission finds that the storage of unlicensed  
4 vehicles is not more appropriate, nor does it  
5 conform more closely to the basic characteristics  
6 of the classification to which it is proposed to  
7 be added, that being commercial parking facility,  
8 than to any other classification, that being  
9 automobile dealership. Thank you.

10 MR. LAMB: Thank you, Mr. Bedell.

11 If you have anything to say, we would  
12 like to have you sworn in before you speak, sir.

13 MR. KREMSER: Am I allowed to examine the  
14 witness?

15 MR. LAMB: No.

16 MR. KREMSER: Why not?

17 MR. MALONEY: Pardon me. You said "the  
18 witness." Mr. Bedell?

19 MR. KREMSER: Mr. Bedell.

20 MR. MALONEY: Yes. Yes.

21 MR. KREMSER: Well, first of all, I want  
22 to -- can I seek clarification? Is Mr. Shimola's  
23 request approved or denied?

24 MR. MALONEY: They haven't voted yet.

25 MR. LAMB: Sir, can I have you -- can I

1 have you sworn in, first and foremost, since  
2 you're speaking on the record?

3 MR. KREMSER: Why would I need to be  
4 sworn in? I'm not testifying.

5 MR. LAMB: I'm asking you to be.

6 MR. MALONEY: I'm sorry, Mr. Chairman.  
7 You're simply going to act as Mr. Shimola's  
8 attorney and ask --

9 MR. KREMSER: That's correct.

10 MR. MALONEY: -- ask Mr. Bedell  
11 questions?

12 MR. KREMSER: That's correct.

13 MR. MALONEY: Okay. Fair enough.

14 MR. KREMSER: I'm not -- I'm not a  
15 witness.

16 MR. MALONEY: Fair enough.

17 MR. KREMSER: Mr. Bedell, I just want to  
18 make sure I understand. Can we agree that the  
19 cars in question are parked in a parking lot?

20 MR. BEDELL: Yes. They are parked in a  
21 parking lot.

22 MR. KREMSER: Does the City know how long  
23 those cars have been parked there?

24 MR. BEDELL: No.

25 MR. KREMSER: Has it been more than three

1 years?

2 MR. MALONEY: You mean the cars sitting  
3 there now?

4 MR. KREMSER: Yes.

5 MR. MALONEY: So he knows.

6 MR. KREMSER: Well, do you know?

7 MR. BEDELL: The cars that are sitting  
8 there now, have -- have they been stored at the --

9 MR. KREMSER: How long has Mr. Shimola  
10 been storing cars in a parking lot on his  
11 property?

12 MR. BEDELL: I -- I don't know the exact  
13 time when that -- when that began. I don't know  
14 how many years it's been.

15 MR. KREMSER: It's been several years;  
16 can we agree on that?

17 MR. BEDELL: It has been several years.

18 MR. KREMSER: Can we agree that the -- he  
19 received a letter notifying him of a citation of a  
20 violation of a Traffic Code violation? I think  
21 you cited to it, 353.06?

22 MR. MALONEY: For clarity, Mr. Bedell did  
23 not refer to any citation.

24 MR. KREMSER: Did you refer to ordinance  
25 353.06?

1 MR. BEDELL: Yes, I did.

2 MR. KREMSER: Okay. And that's under the  
3 junk car ordinance?

4 MR. BEDELL: Yes, it is.

5 MR. KREMSER: Junk motor vehicle code?

6 MR. BEDELL: It's under Section 353.06.  
7 I don't have that -- I don't know the exact name  
8 of that chapter.

9 MR. KREMSER: Okay. Have you looked at  
10 the definitions of what junk motor vehicles  
11 consist of? Are you familiar with that?

12 MR. BEDELL: Yes.

13 MR. KREMSER: Okay. How -- how does the  
14 City Code identify or define "junk motor  
15 vehicles"?

16 MR. BEDELL: I don't have that section of  
17 code in front of me.

18 MR. KREMSER: Can we agree that a junk  
19 motor vehicle in the City of Westlake is a vehicle  
20 that's at least three years or older?

21 MR. BEDELL: I don't have that in front  
22 of me, so I can't answer that without it in front  
23 of me.

24 MR. KREMSER: Well, you keep looking at  
25 Mr. Maloney. Has he shown that section to you

1 before?

2 MR. MALONEY: Objection. You can't ask  
3 what he talked to his attorney about.

4 MR. KREMSER: I didn't ask if he talked  
5 to you. I asked if he showed it to him -- if you  
6 showed it to him.

7 MR. MALONEY: Same objection.

8 MR. BEDELL: I don't recall that he's  
9 shown me that section of the code.

10 MR. KREMSER: Can we agree that the  
11 vehicles on Mr. Shimola's property are not more  
12 than three years old?

13 MR. BEDELL: We cannot. I have no way of  
14 knowing how long they've been there. I told you  
15 that already.

16 MR. KREMSER: Have you ever looked at the  
17 vehicles?

18 MR. BEDELL: I have seen the vehicles,  
19 yes.

20 MR. KREMSER: Okay. Did you see whether  
21 they have licenses or if they're unlicensed?

22 MR. BEDELL: The ones that I have seen do  
23 not have licenses.

24 MR. KREMSER: How close did you get to  
25 the vehicles?

1 MR. BEDELL: Close enough to see that  
2 they do not have license plates or tags.

3 MR. KREMSER: But not close enough to  
4 determine if they were three years or older?

5 MR. BEDELL: I'm not an expert in cars.  
6 I wouldn't be able to tell the age of a car just  
7 by looking at it.

8 MR. KREMSER: Well, let me ask a  
9 different question. Were you able to determine if  
10 the vehicles were extensively damaged?

11 MR. BEDELL: I did not evaluate the  
12 condition of the vehicles.

13 MR. KREMSER: Okay. Did any of the cars  
14 that you saw -- were they missing tires?

15 MR. BEDELL: I did not see any that were  
16 missing tires.

17 MR. KREMSER: Did you see any of the  
18 vehicles that were extensively rusted?

19 MR. BEDELL: Again, I did not look at the  
20 condition of -- of the vehicles. They --

21 MR. KREMSER: But you could tell that  
22 they were unlicensed?

23 MR. BEDELL: -- they looked like new  
24 vehicles. And it's one thing to ask about the  
25 condition of a vehicle; it's another thing to ask

1 whether or not there was a plate. What's a  
2 license plate, about five inches by eight inches  
3 or something on the back of it? That's -- that's  
4 something that can be seen.

5 MR. KREMSER: Right. And did any of the  
6 vehicles look inoperable to you?

7 MR. BEDELL: That's not something that I  
8 would be able to tell by looking at a vehicle.

9 MR. KREMSER: Did any of the vehicles  
10 look like they had a fair market value below  
11 \$1,000?

12 MR. BEDELL: Again, I did not evaluate  
13 the condition of the vehicles. I don't -- I don't  
14 have an answer for that.

15 MR. KREMSER: The reason I'm asking is  
16 that according to the Westlake Code, that is what  
17 a junk motor vehicle is defined as. Were you  
18 aware of that?

19 MR. BEDELL: Yes.

20 MR. KREMSER: Nowhere in the definition  
21 of junk motor vehicles does it say licensed. Were  
22 you aware of that?

23 MR. BEDELL: I was not aware of that.

24 MR. KREMSER: Were you aware that Mr.  
25 Shimola was previously advised by the City

1 Property Maintenance Officer that he could  
2 continue to park cars there?

3 MR. BEDELL: I was not advised of that.  
4 You had mentioned it at the last meeting.

5 MR. KREMSER: Are there unlicensed cars  
6 parked anywhere else in the City of Westlake  
7 besides Mr. Shimola's property?

8 MR. BEDELL: I have no way of knowing  
9 that.

10 MR. KREMSER: Have you ever driven past  
11 Ford Auto Nation on Center Ridge?

12 MR. BEDELL: Oh, unlicensed vehicles --  
13 yeah, that is an automobile dealership. They are  
14 allowed to have unlicensed vehicles.

15 MR. KREMSER: Why?

16 MR. BEDELL: As an automobile dealership.

17 MR. KREMSER: I understand they're an  
18 automobile dealership. Why are they allowed to  
19 have unlicensed vehicles there? Do they have a  
20 permit?

21 MR. BEDELL: Yes. They would have a  
22 permit. A conditional use permit.

23 MR. KREMSER: And you're saying that the  
24 City of Westlake has proved that those dealerships  
25 were issued conditional use permits?

1 MR. BEDELL: One moment, please.

2 1216 -- 1216.03 C3, sale of new  
3 automobiles and new car rental agency.

4 Conditional use in general business and  
5 conditional use in interchange services.

6 MR. KREMSER: Okay. So you're -- you're  
7 reading me the ordinance. I'm asking you were  
8 those dealerships issued those permits?

9 MR. BEDELL: I can research that and  
10 answer your question. I don't know that right  
11 now.

12 MR. KREMSER: Okay. So today you don't  
13 know the answer to that?

14 MR. BEDELL: I don't know the answer to  
15 that right now.

16 MR. KREMSER: Okay. But you would --

17 MR. BEDELL: I can only assume that they  
18 do, because they are in existence. They may,  
19 depending on how long they've been there. If they  
20 had been in existence prior to the adoption of the  
21 code, which requires a conditional use permit,  
22 they may be there as a legal non-conforming use.  
23 That is what I will have to research.

24 MR. KREMSER: I appreciate that, and I  
25 apologize to you for speaking over you.

1 Can we agree that Mr. Shimola's business  
2 property at Center Ridge Road where Wagner's is,  
3 it's -- it's -- it's zoned for general business?

4 MR. BEDELL: Yes.

5 MR. KREMSER: Except for a section that's  
6 zoned parking?

7 MR. BEDELL: Yes.

8 MR. KREMSER: Can we agree that the Auto  
9 Nation dealership is also zoned general business  
10 except for a section that's zoned parking?

11 MR. BEDELL: That's -- that's my  
12 recollection. I don't -- I don't have a zoning  
13 map in front of me tonight.

14 MR. KREMSER: I appreciate that. I  
15 brought it last time.

16 What about Nick Mayer's dealership; are  
17 they zoned general business as well?

18 MR. BEDELL: I -- I believe they are.  
19 Again, I don't have a zoning map.

20 MR. KREMSER: Can the Auto Nation  
21 dealership park unlicensed cars in the area zoned  
22 parking?

23 MR. BEDELL: They are operating it as --  
24 as an automobile dealership. So, yes, I believe  
25 they can.

1 MR. KREMSER: So they can operate an  
2 automobile dealership both in general business and  
3 in an -- in an area zoned parking?

4 MR. BEDELL: Let me find that section of  
5 code.

6 Yeah, I believe it's 1214.03 A; open  
7 unenclosed passenger automobile parking facilities  
8 for permitted uses in adjoining residential and  
9 business districts. So the permitted use in the  
10 adjacent district in -- in your example would be  
11 an automobile dealership.

12 MR. KREMSER: And I apologize, sir. What  
13 section were you looking at?

14 MR. BEDELL: 1214.03 A1 -- sorry. 2.  
15 A2.

16 MR. KREMSER: Thank you.

17 MR. BEDELL: Would you like me to read it  
18 again?

19 MR. KREMSER: No. I don't have anything  
20 further. Thank you. I have nothing further.  
21 Thank you.

22 MR. LAMB: Thank you very much.

23 Would anybody from the audience wish to  
24 speak to this item? Not seeing any, Ms. Falcone?

25 MS. FALCONE: I think I had all my

1 questions answered at the last session. Thank  
2 you.

3 MR. LAMB: Councilwoman Appel?

4 MS. APPEL: Nothing further. Thank you.

5 MR. LAMB: Mr. Van Dyke?

6 MR. VAN DYKE: Nothing from me.

7 MR. LAMB: And I have no questions at  
8 this time either. Do we have a motion?

9 MS. FALCONE: Yes. I'm going to read  
10 some of the findings of fact as part of my motion.

11 Traffic Code pursuant to Westlake  
12 Codified Ordinance WCO Sections 353.06 and 353.07,  
13 it is illegal to store unlicensed automobiles  
14 outdoors at this location.

15 Under the Zoning Code, part of  
16 applicant's property is zoned general business,  
17 and part of applicant's property is zoned as an  
18 auto parking -- automobile parking district. Only  
19 licensed automobiles are permitted to park  
20 outdoors at a commercial parking facility pursuant  
21 to WCO Section 1216.03 G8. Commercial parking  
22 facility as termed is -- as the term is used in  
23 WCO Section 1216.03 G8 does not include the  
24 storage of unlicensed automobiles.

25 As to WCO Section 1229.01 A, the

1 Commission finds that the storage of unlicensed  
2 automobiles is permitted in other classification  
3 of permitted use, that being under 1216.03 D3,  
4 sale of new automobiles and new car rental agency.

5 As to WCO Section 1229.01 B, the  
6 Commission finds that the storage of unlicensed  
7 vehicles is not more appropriate nor does it  
8 conform more closely to the basic characteristics  
9 of the classification to which it is proposed to  
10 be added, that being commercial parking facility,  
11 than to any other classification, that being  
12 automobile dealership.

13 Based upon the findings of fact, I move  
14 to recommend Council amend the Zoning Code to  
15 permit the storage of unlicensed automobiles as  
16 similar to commercial parking facilities for  
17 licensed automobiles.

18 MR. LAMB: Thank you. Do we have a  
19 second?

20 MR. VAN DYKE: Second.

21 MR. LAMB: Mr. Van Dyke. Please call the  
22 role.

23 MS. SACKMAN: I'm sorry to ask, but I  
24 heard that Lauren read findings of fact, but I  
25 wasn't sure what the motion is.

1 MS. FALCONE: I move to recommend Council  
2 amend the Zoning Code to permit the storage of  
3 unlicensed automobiles as similar to commercial  
4 parking facilities for licensed automobiles.

5 MR. VAN DYKE: Second.

6 MS. SACKMAN: Thank you.

7 MR. LAMB: Please call the roll.

8 MS. SACKMAN: Appel?

9 MS. APPEL: No.

10 MS. SACKMAN: Van Dyke?

11 MR. VAN DYKE: No.

12 MS. SACKMAN: Falcone?

13 MS. FALCONE: No.

14 MS. SACKMAN: Lamb?

15 MR. LAMB. No.

16 MS. SACKMAN: Motion failed.

17 MR. LAMB: Thank you very much. The next  
18 item on the agenda for this evening is Ordinance  
19 2020-73, initial use permit for a drive through  
20 restaurant.

21 MR. KREMSER: May I ask for an  
22 explanation?

23 MR. LAMB: No.

24 MR. KREMSER: May I ask why I'm not  
25 entitled to one?

1                   MR. MALONEY: That's not the procedure,  
2 and you know it.

3                   MR. KREMSER: Well, it is the United  
4 States of America.

5                   MR. MALONEY: Oh, okay.

6                   MR. KREMSER: Thank you.

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REPORTER'S CERTIFICATE

I, Todd L. Persson, 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.



*Todd L. Persson*

Todd L. Persson, Notary Public  
within and for the State of Ohio

My commission expires August 1, 2022.

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