

**City of Springboro**  
**320 West Central Avenue, Springboro, Ohio 45066**  
**Planning Commission Work Session**  
**Wednesday, May 8, 2019, 6:00 p.m.**

**I. Call to Order**

Chairperson Becky Iverson called the Springboro Planning Commission Work Session to order at 6:00 p.m. at the Springboro Municipal Building, Council Chambers, 320 West Central Avenue, Springboro, Ohio.

Present: Becky Iverson, Stephen Harding, Chris Pearson, Becky Hartle, Robert Dimmitt. Absent: Jack Hanson, John Sillies

Staff: Dan Boron, City Planner; Alan Schaeffer, City Attorney, Chad Dixon, City Engineer; Amy Brown, Planning Commission Secretary

Ms. Iverson said that Mr. Sillies was unable to attend tonight's meeting due to work obligations, and Mr. Hanson, who recused himself previously, would not be attending tonight's meeting.

**II. Agenda Items**

**A. Planning & Zoning Code Text Amendment**  
**CBD, Central Business District, amendment to allow vehicle repair facility as a permitted use**

**Background Information**

This agenda item is an application filed by Music Limited Partnership requesting an amendment to the text of the Planning & Zoning Code to allow vehicle maintenance facilities as a permitted use in the CBD, Central Business District. The applicant appeared before the Planning Commission at the March 13th work session requesting rezoning of property at 205 East Street, a property located within the CBD, to another zoning category that would allow a vehicle maintenance facility. That rezoning application has been formally withdrawn.

The CBD was established in the Planning & Zoning Code, as revised in 2015, to allow for a mix of residential, retail, office, and community, civic, and institutional uses. The CBD's purpose is to accommodate the preservation and redevelopment of the historic core of the community. The CBD overlays the six-block portion of South Main Street extending from Central Avenue (SR 73) to just south of Mill Street, as well as property on adjoining side streets including East Mill Street, West Mill Street, East Factory Street, and East Market Street. The CBD can also be found on property fronting East Central Avenue from East Street to just east of East North Street, and a small node on the 200 block of East Market Street.

The CBD's design and development standards were crafted specifically to the design pattern of the Historic District area. Setbacks are smaller than other business districts, reflecting the existing development pattern, and permitted residential development densities are higher than in most other areas of the community. The CBD also differs in that it allows a mix of residential, office, retail, and community/civic/institutional uses including the following:

Most residential uses—apartments accessory dwellings or granny flats, single-family residential (attached and detached)  
Colleges  
Charitable and philanthropic organizations  
Private clubs and civic organizations  
Places of worship  
Schools  
Day care centers  
Public recreation  
Cultural, public, and municipal uses  
Essential services and utilities  
Retail sales (indoor)  
Bed & Breakfasts  
Bars and taverns  
Offices  
Personal service establishments  
Hotels, motels, and inns  
Funeral homes  
Restaurants without drive-throughs  
Bakeries and confectionaries  
Places of assembly

In addition the following accessory uses are permitted when associated with a permitted use listed above:

Accessory structures  
Farmer's markets and Roadside stands  
Food trucks  
Home occupation (when tied to a residential use only)  
Outdoor storage  
Outdoor dining  
Seasonal sales

The requested use, vehicle repair facility as well as other light manufacturing-type uses, is not currently listed as a permitted use in the CBD. The use, as defined in the Planning & Zoning Code (Chapter 1290), separates the use into the following subcategories:

Vehicle Repair, Minor and Major: "Vehicle repair, minor" and "vehicle repair, major" mean the following:

"Minor vehicle repair" means engine tune-ups; servicing of brakes, air conditioning, exhaust systems; oil change or lubrication; wheel alignment or balancing; or similar servicing or repair activities that do not require any significant disassembly or any storing of vehicles on the premises overnight.

"Major vehicle repair" means engine and transmission rebuilding and general repairs, rebuilding or reconditioning; collision service; steam cleaning; undercoating and rust proofing; painting; welding; and similar services that normally require significant disassembly and possible storage of vehicles on the premises overnight.

Minor vehicle repair facilities are currently permitted in the ED, Employment Center District, and the M-1, Light Manufacturing District. Major vehicle repair facilities are permitted in the

ED, M-1, and M-2, Heavy Manufacturing Districts. The ED can be found on the Official Zoning Map of the City of Springboro on the west side of the community to the north and south of the West Central Avenue (SR 73) corridor west of Clearcreek-Franklin Road. Properties zoned ED do not front on West Central Avenue but are located on Sharts Road, Pleasant Valley Drive, South Pioneer Drive, North Pioneer Drive, and other side streets in the area. The M-1 and M-2 can be found in a small area to the east of the Historic District. Mound Steel, High Concrete, and the City service garage are located in the M-1/M-2 area.

The absence of vehicle repair facilities from the CBD is a reflection of the City's Land Use Plan, adopted by City Council in April 2009. The plan includes recommendations for the long-range development of the community. It is divided into 16 policy areas that make specific recommendations for smaller portions of the community that are grouped together because of proximity, land use patterns, date of development and other general characteristics. Policy Area #13, Historic Core, includes the land in the CBD as well as areas on East Street that are zoned R-2, Low Density Residential District. Preferred land uses identified in the plan include office, retail, restaurants without drive-throughs, detached and attached residential dwellings, accessory apartments, and public and semi-public uses such as schools and churches. An excerpt of the *Land Use Plan* is included in the meeting materials.

Any newly sited minor or major vehicle repair facility would need to comply with the zoning district design and development standards (setbacks, building height, etc.) for the site on which it is proposed, specific design and development standards for the use, and other design and development standards covering such topics as lighting, landscaping and screening, signage, off-street parking, and more. Typically those issues are addressed in the course of a business application for a certificate of zoning compliance and/or the City's site plan review process.

In addition to conventional zoning requirements, any proposed use will need to address the issue of historic preservation. The CBD corresponds to much of the Downtown Springboro Historic District, a federally- and locally-designated historic district (note: since the two districts mostly share a common boundary, they will be referred to in the singular in the remainder of this document). The historic district protected structures through the Historic Preservation Code as administered by the Architectural Review Board through the certificate of appropriateness (COA) process. The historic district designation provides for a mechanism to review exterior changes to historic, or protected properties, ranging from painting schemes to additions, material changes, or demolition. Changes to vacant property are also subject to COA review and approval. As it relates to this text change request, changes to the exterior of most properties in the CBD would also be subject to the requirements of the Historic Preservation Code.

Following the Planning Commission's discussion at the April 10th work session, the Planning Commission may authorize this item to be placed on a future Planning Commission regular meeting agenda for formal approval in the form of a recommendation to City Council. Only City Council may formally amend the text of the Planning & Zoning Code in the form of an Ordinance. Following Planning Commission's recommendation, City Council will set a public hearing on the Ordinance, post a notification in the local paper and on the City website. The text change Ordinance would need to be approved by City Council following three readings of the Ordinance.

## Staff Comments

City staff has the following comments regarding this agenda item:

1. Applicant to indicate how the proposed text complies with the 2009 City of Springboro Land Use Plan, Policy Area #13, Historic Code, preferred land uses. What in this application warrants the City to depart from its approved Land Use Plan to permit this use in the CBD, a district specifically designed to correspond to the historic core of the community?
2. Indicate if the proposed text change request is for a minor vehicle repair or major vehicle repair, as defined in the Planning & Zoning Code.
3. Assuming an amendment to the Planning & Zoning Code text is approved, the applicant is advised of the following review and approval necessary prior to the use being approved:
  - a. All permitted uses are subject to compliance with the design and development standards for the district in which they are situated;
  - b. General Planning & Zoning Code provisions such as lighting, landscaping and screening, off-street parking, and more will need to be complied with; and
  - c. A certificate of zoning compliance will need to be applied for; and
  - d. The proposed use will need to comply with the City's site plan review process.
4. City staff reserves the opportunity to provide comments regarding this application at a later date.
5. The Clearcreek Fire District has no comments at this time.

## Discussion:

Kerry Sutton, owner of Pro Automotive, Taylor Sutton, owner of Pro Automotive, and Todd Music, property owner and project manager for Music Limited Partnership, were present this evening to answer questions and discuss the proposal.

Ms. Iverson said that the applicants had originally requested rezoning, and that was withdrawn. She said they are now talking about amending the text of the current zoning, and she asked Mr. Boron if there was anything he would like to add.

Mr. Boron said that he has included in the meeting materials a map showing the boundary and a list of contributing structures in the Historic District. He said that even though we are not talking about a zoning map amendment as back in March, he wanted the members to be aware of the District's boundaries. He said the subject property is a non-contributing structure to the Historic District. He said that staff has made some comments, and there is a list of permitted uses included based on what is allowed in the Central Business District. He said that he also provided the definition of vehicle repair, major and minor, and they need to know from the applicant which one is being requested. He said he included a review of the Land Use Plan recommendations. He added that any property within the district also has to comply with the Historic District, and the Architectural Review Board manages the external appearance and changes to properties within the Historic District.

Ms. Iverson said that in the staff comments, the applicant needed to indicate how this proposed text complies with the City of Springboro 2009 Land Use Plan, and if this were to be amended, any other property in the district could become this type of garage.

Mr. Boron confirmed that the use would be permitted throughout the district.

Mr. Kerry Sutton said that they would have to meet the requirements.

Mr. Music said that very few properties would meet that, such as the requirement of a 12,000 square foot lot.

Ms. Iverson said that our Land Use Plan does not allow for those types of businesses, and we would be going against the current Land Use Plan.

Mr. Kerry Sutton said that under Section 1263.02 of the Planning and Zoning Code, permitted uses and uses not expressly permitted, prohibited use may become permitted use if Council passes an amendment, or bring the prohibited use onto the permitted use list for the appropriate zoning district. He said they think the door is open here for amendments to be made.

Mr. Music said that the Land Use Plan was more of a guide, and not something that is set in stone. He said the business would be a minor auto repair, and there wouldn't be any paint booth, chemicals, or significant body repair. He said they would be held accountable to all standards of the current zoning and building codes, and they were willing to invest in the property to bring it up to those standards. He said there were very few existing lots within the Historic District that are capable of meeting the total square footage, and they would be willing to combine all of the existing parcels into a single parcel, so the Board could define the allowable parameters of an existing minor auto repair business. He said the building has such a unique nature that there aren't many uses for, other than warehousing and this circumstance.

Mr. Boron said that the Planning Commission and City Council use the Land Use Plan as guidance, along with other factors for them to make a decision. He said it is used as a basis for making decisions. He added that the current site does not meet the minimum amount of 12,000 square feet, and if Planning Commission and City Council both approve this item, lot consolidation would have to occur.

Mr. Pearson said that if someone bought several properties together, and the land totaled over 12,000 square feet, it's the same as what the applicant proposing. He said that the applicant's set of properties currently don't comply.

Mr. Music said that he would go back to the nature of the building, which he has clearly identified as being such a unique pre-existing structure.

Ms. Iverson said that the building use before is irrelevant. She said the Land Use Plan is the guide, and there are buildings downtown that were other things. She said that the K was once a gas station, but it can't go back to that. She added that the building's character is unique, but that doesn't guide them to what's allowed in there.

Mr. Music said that the comment at the last meeting from a (Planning Commission) member stating that they wrestled with the idea that this building is such a unique building in nature. Mr. Music agreed with the comment, and said that the building is not historical, and it was built for a purpose by the Township to do similar activities. He said that part of it remains vacant because they simply don't know how to use it.

Mr. Harding said that a lot of time was spent to formulate the Land Use Plan in 2009, and asked if the text excluding what could go in there had been in the Plan or prior to the Plan.

Mr. Boron said that the previous code also excluded the use, that automotive uses have been excluded in his entire time with the City.

Mr. Kerry Sutton asked if it was implied then, because now it's pointedly written.

Mr. Boron said that it is pointedly written. He said the applicant wants to say implied, but before it didn't permit industrial uses.

Mr. Music said that going back and looking at the last three zoning maps, from 1997 to 2011, then to 2015, you can see the evolution of these spaces that have actually created spot zoning. He said the most recent in 2015 created CBDs that are islands in addition to what may or may not fall into Historic categories.

Ms. Iverson said that she didn't know if what the applicant was saying was true regarding the spot zoning.

Mr. Pearson said that he didn't know why it was germane.

Mr. Music said that because that was the argument at the last meeting, about not wanting to create it, but it has already been created.

Mr. Pearson said that he didn't know whether it's worth arguing that it had been created or not. He asked, why, given the Land Use Plan as the guide, should they as a group approve this change.

Mr. Kerry Sutton said that they are saying the uniqueness of the building, and all the things that have been mentioned before without restating them, put this in a unique category. He said that one of the committee members who is not here tonight said that in his opinion, this is a time to right the wrong for that building. He said they don't embrace that just because it supports their case, but they believe it, and Mr. Music believes it as the owner of the building.

Mr. Music, again, it's because it's where it lies geographically.

Mr. Pearson said that the fact that it is in the Historic District as a non-contributing structure doesn't matter. He said what matters is the zoning, and the zoning doesn't allow it, and the Land Use Plan doesn't anticipate it. He asked why they should change the nature of the neighborhood, against the Land Use Plan, to allow these kinds of properties, and the applicant's would be the first.

Ms. Iverson added that it wouldn't necessarily be the last.

Mr. Pearson said that this is a change not just for the applicant, it's a change for the entire district. He said they are being asked to go against the Land Use Plan.

Ms. Iverson said that they also have to consider, if they do something like this, others can come back before the board to request the same. She said it is irrelevant that the building is unique and they have to think about the whole City, not just one location in accordance with the Land Use Plan. She said she felt like they are disenfranchising the people that worked hard to create the Land Use Plan because it's very thoughtful.

Mr. Kerry Sutton said if the Land Use Plan was perfect, they wouldn't need to be here, but times change, and things can happen.

Mr. Music said that it was time for a review of the Land Use Plan.

Mr. Boron asked Mr. Sutton what part he was referencing from the ordinances earlier in the meeting.

Mr. Kerry Sutton said Section 1263.02, and provided Mr. Boron with the copy. He said they are not trying to play that as a technicality, and they are asking for help. He said they are trying to look at the uniqueness of the situation, which perhaps none of the other previous applicants had, and there may be things as to why this is different than those were.

Mr. Music said if there were multitudes of individuals waiting to see if this goes through or not so they could have ammunition for their own cases, he would think they would be present.

Ms. Iverson said that the members did receive some emails, and five were against, and one was for the change.

Mr. Music said that the two (Planning Commission) members that were not present tonight both do business with these gentlemen, and he sees that as a positive affirmation that what they are doing is of quality.

Ms. Iverson said that is not a question.

Mr. Harding said that it goes back to what was originally said. He said the applicant went into that agreement knowing that this was a temporary status, and it was only going to be a temporary status. He said that applicants with auto repair shops have come through, and the Planning Commission said here are the permitted use areas according to the Land Use Plan. He said this was a temporary thing for a set time, and the applicant knew it when they signed the contract with Mr. Davis. He asked where the evidence was to convince members to go against everything that had been done and everybody that has come before them.

Mr. Kerry Sutton said that there was an ongoing business that they had a chance to purchase, and there was risk involved. He said they did it with hopes that they could work with this Planning Commission and figure out a way to make it work. He said at that point, they already had a base of appreciative customers.

Ms. Iverson said that this has nothing to do with quality, and the City can help them find another location.

Mr. Kerry Sutton said they wanted to exhaust any and all possibilities of being in this place.

Mr. Pearson asked if the Planning Commission turns this down, would it still go to the City Council in some other fashion.

Mr. Boron said that any motion that Planning Commission makes can move forward to our City Council until it's withdrawn by the applicant. He said recommendations go forward, positive or negative to Council, and it is up to the property owner to stop the process.

Ms. Iverson said that to clarify, if we were to say no at the next meeting, it would still go to Council.

Mr. Boron said, absolutely, and City Council would have to have a super majority to overturn Planning Commission's recommendation, whether it's positive or negative.

Mr. Pearson asked if there was anything the applicant could tell the Planning Commission that answers question one in the staff comments.

Mr. Music said that they are asking for consideration in the opportunity for the Planning Commission to guide something that doesn't fit anywhere, even if it is a one-time single owner. He said they are asking for the right to continue to operate until they no longer operate, and then it would absolve that ability to use that building.

Mr. Harding said that technically in the contract, when Mr. Davis was out of business, the contract was null and void. He said there should have been a cease and desist back then, before the applicant took ownership of it, but the City was nice enough to continue the temporary status.

Ms. Hartle said that if this doesn't work, she hoped the applicant can find some place because their reputation is great. She said this is just about the zoning, and she doesn't think it's a great idea, because if you change the zoning, the Board doesn't have control, because it would become a permitted use.

Mr. Kerry Sutton asked if there were things unique to this situation.

Ms. Hartle said, yes, but we have to change the zoning to put the garage there, and it doesn't matter how unique you are. She asked why the applicant wasn't here earlier because they knew from the day they bought the business this was coming up.

Mr. Kerry Sutton said that they bought the business on December 1, and then started the process. He asked if any previous applicants wanted to put a garage in the CBD.

Ms. Iverson said she was not sure.

Mr. Pearson said that typically if someone wanted automotive repair, they go and look at the zoning map to see the permitted areas.

Ms. Kerry Sutton said he knows there is probably bad blood between people and Mr. Davis, and asked if the City got something out of that property.

There was a consensus among Planning Commission members that there was no bad blood.

Mr. Boron said there was no bad blood with the business or the owner, and the City did this to help facilitate the move off the corner of SR 73 and SR 741. He said this was about a City improvement that City Council identified as a priority. He added that the question is if this fits in with the Land Use Plan.

Mr. Kerry Sutton asked what kind of sympathy exists in a case like this.

Mr. Boron added that Mr. Davis was not finding a site, and he walked through sites with Mr. Davis at other locations in the City. He said if he wasn't off the corner by the due date, his materials were going to be removed from the site. He said they found a temporary solution with Mr. Music's father. He repeated that there was no bad blood, and whatever Planning Commission and Council decides, he will carry it out.



Mr. Dimmitt said that he was going to say the same thing he said two months ago. He said he would like for the applicant to stay, but he doesn't agree with the zoning change, or a change in verbiage of the zoning code. He said the Suttons don't own the property, and could leave in a month, then there would be a zoning problem. He said that he would vote no.

Ms. Iverson said that everyone has had a chance to speak, and asked the applicant if there was anything else that they wanted to say.

Mr. Taylor Sutton said he felt frustrated, and he wondered what the true reason was as to why this isn't wanting to be done. He said that he understood there are reasons for not wanting other garages to come into the downtown area.

Mr. Music said that the Land Use Plan is 10 years old, and it is time to review the guide, so these things can be taken into consideration.

Mr. Boron said that if Planning Commission members would be ready to make a decision, this item could be on the agenda for the May 29th Planning Commission meeting for formal action.

Mr. Music said that what he was hearing with the five members present that there is no change of heart with the change in submission.

Ms. Iverson said that this was not a voting meeting, and they are giving their opinions as individuals. She said the purpose of this meeting was to maybe get a sense of how this would go.

Mr. Boron said that between now and the next meeting, he would furnish the members with the meeting minutes and any public comments received. He said that he concurs with some of the things the applicant has said, but it comes down to zoning in the end, and the zoning does not match what the Plan says, and the use does not match what the zoning code says. He said he would be happy to do whatever the Council and City Manager's office wanted to do to help out the applicant and that has not changed.

### **III. Guest Comments**

Ms. Iverson asked if there were any guest comments, please come up to the podium, state their name and address for the record.

Mr. Walter Scott Reeve, property owner at 305 East Street, said the last time he was here, he voiced his concern about having the garage in the neighborhood, and he spoke with the gentlemen after the meeting, and he appreciated what they had to say. He said his main concern was junk motor vehicles on the lot, and they assured him they would take care of it. He said he took pictures of the property after that meeting, and there was a vehicle with no tags and a for sale sign parking in a handicapped spot, two crashed vehicles with no tags behind the business, multiple cars in the parking lot without tags visible from the street. He said he could forward the pictures to Planning Commission members. He said he thought there was a very good reason that it isn't zoned for a garage because it doesn't fit in a residential neighborhood. He said he hoped the Board stuck with the zoning because he likes the neighborhood.

Ms. Iverson said if Mr. Reeve would like to email those pictures, please speak with Mr. Boron after the meeting to exchange email addresses. Mr. Kerry Sutton said for the record, they are restricted from moving those cars until the file for title comes through, and it would be illegal for them to move that vehicle.

Mr. Reeve said that it was illegal for them to be there.

Mr. Kerry Sutton said the procedure in Ohio doesn't allow them to just tow those off. He said he was referring to customer vehicles that are to be picked up in ten days. He said they have been telling their customers that they have ten days to pick up their vehicles, or fines will start. He said that is what he was referring to in his conversation with Mr. Reeve.

#### IV. Planning Commission and Staff Comments

Mr. Boron distributed flyers to the members regarding the upcoming public meeting on May 20th as part of the BPAC meeting to discuss the bike and pedestrian plan update. He said he was looking for member's comments, and there is an online survey available if they are unable to attend the public meeting.

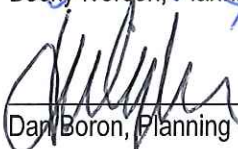
Mr. Boron distributed images to the members regarding the color scheme for The Falls apartments. He said that this is not for action, and the past few meetings, there have been discussions about the color scheme at The Falls apartment buildings. He said he received the images from Mr. Prunier of The Connor Group at the end of the business day on Monday, and they are consistent with City staff recommendations. He said if Planning Commission members are okay with it, this item could be on the agenda for May 29th.

There was a consensus among members to place the item on the agenda for the next meeting.

#### V. Adjournment

Ms. Iverson adjourned the Wednesday, May 8, 2019 Planning Commission Work Session at 6:50 p.m.

  
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Becky Iverson, Planning Commission Chairperson

  
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Dan Boron, Planning Consultant

  
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Amy Brown, Planning Commission Secretary