

Roll Call:	Ayes:	Mr. Malone, Mrs. Moore, Mr. Roeder Mrs. Senturia, Mr. Williams, Mr. Zimmerman
	Abstain:	Ms. Williams
	Nays:	None

Motion Carried

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The Mayor invited members of the audience to comment on any of the agenda items other than Item No. 2.

No comments were offered.

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Ordinance No. 19-46, by Mr. Zimmerman, approving the recommendation of the City Planning Commission to amend the Zoning Map and the rezoning of a portion of Permanent Parcel No. 733-26-001, with conditions.

Mayor Weiss thanked everyone for attending tonight. He recognizes many members of the audience from prior meetings. Staff, Council and he have also spoken with some of them, received letters and emails, and if their comments have been directed to him or Council they will be included in the record. He appreciates their involvement which is in keeping with the passionate engaged public citizenry we have in Shaker for which we are well known. The goal of Council, the ordinances, and this process is to make sure we provide a forum and opportunity for both residents and applicants in a respectful and civil way to consider, evaluate and debate significant matters of import to our community. Staff will provide the background in a moment on the Zoning Code amendment request for a portion of the Shaker Heights Country Club (SHCC). While not unheard of, this type of matter does not often come before Council. Tonight this item will be presented for a third reading. For those not familiar with the process, matters of significance often are considered at three separate meetings and Council provides opportunity for input. While we owe it to any applicant to make sure our process moves forward expeditiously, we also owe it to our residents to have an opportunity for public input and Council to have time to thoroughly review and consider any action that comes before them. Because this matter is a little different in that it is on third reading there are several options that Council will be asked to address later this evening. Council may choose to not take any action tonight and request more information, request clarifications, or consider other changes they might make to the ordinance. If it is Council's prerogative to take action tonight they may do that as well. There is a motion that is pending that will need a second by someone from Council and then action taken. It requires a majority vote of Council for this ordinance to be enacted. He will provide an opportunity for those wishing to make any comments tonight. While he will provide for public comment, depending on how things progress, he may need to do a check, to move things along for the other agenda items. The format is to provide staff an opportunity to do a brief introduction to the matter, the applicant to make a brief presentation, provide Council with an initial opportunity for questions or clarifications, and provide for public comment. After public comment it goes back to Council for deliberation, action or no action as Council sees fit. He gave a few brief guidelines for public comment to keep things moving

along and to provide an opportunity for as many as possible to speak. We usually ask for residents to line up along the wall toward the podium so they are ready to speak when the person in front of them is done. Please speak into the microphone as the meeting is recorded and will be available on our website, start by providing your name and address and proceed with your question or comment. Any questions or comments should be directed to Council rather than the applicant. Please be succinct and no longer than a minute or two. Feel free to say you agree with another person so as not to repeat those comments.

Senior Planner Daniel Feinstein gave a presentation showing a few pictures of the current zoning map, the zoning districts surrounding the site, another view toward Green Lake pond, and a view of Parkland inside of the site where the oil and gas well tanks are located. This is formally a request for a zoning map amendment to create two single-family lots zoned single-family (SF-1) in the currently zoned parks and recreation (PR) site. Any further development of the lots does require additional City review and public meetings, including site plan review by the City Planning Commission. This process began with the City Planning Commission on June 4, 2019, where they recommended approval with the following conditions: the riparian setbacks on the site be delineated before any land disturbing activity; organic material must be removed from the SHCC going forward; maintenance and access agreements agreed to and created; a permanent conservation easement is recorded; the conservation easement assigned to a third party; and a final plat be submitted. At the second reading and public hearing held on June 24, 2019, Council had questions about the environmental condition, and remediation of soil samples onsite before development could occur. The proposed ordinance includes one addition. Prior to the issuance of a building permit or the start of any clearing activities or construction on either parcel, a full and complete delineation of the area of contaminated soil which exceeds the limits acceptable for residential development must be prepared by a qualified environmental expert. That report of such expert and a plan for such contaminated soils removal must be provided to the City for review and approval. All contaminated soil must be removed from the site during site prep activities prior to the construction. Proof of such removal shall be provided to the City prior to the issuance of a building permit or the start of construction of any structures on the parcel. A zoning map amendment does require three readings and a public hearing as the Mayor mentioned earlier. Council introduced this map amendment for first reading on May 28, 2019. The public hearing and second reading was held on June 24, 2019. This evening is the third reading of this ordinance.

Council member Mr. Zimmerman stated that for the benefit of those who may not have attended previous meetings or the hearing, this proposal originated by requirement under the Zoning Code, before the City Planning Commission where the Mayor serves as the Chair, and Mr. Zimmerman serves as the Council representative. At that meeting, they heard a full proposal by those who applied for the rezoning, heard from those with an opinion on it both pro and con, and ultimately it was recommended to go forward to City Council with a vote of 3:1:1. They also received the application for a subdivision of land, and a lot split which would permit the sale of these parcels for single-family homes in the event the rezoning was approved. Of course if the rezoning is not approved the subdivision of land will be of no force and effect. He personally asked the Planning Department to circulate Zoning Code Section 1213.07 dealing with standards for zoning amendments because we are being asked to take legislative action on the Zoning Code this evening. As the Mayor indicated this is not typical, but it does happen. We take this very seriously, and while Council will be exercising their legislative discretion to either pass, not pass, or do something else, we do have these standards to guide their consideration and deliberations. He asked Council to keep this in mind when the members of the public speak and ultimately when Council has its deliberation.

Council member Mr. Malone asked about the proposed boundary line.

Mr. Feinstein stated that one map with a blue line shows the 100-year flood plain, not a property line. He showed another picture with the proposed property lines which divides the two parcels down the middle. A final conservation easement required by our storm water regulations would be included. If the lots were created they would preclude development within that area as a permanent restriction.

Mr. Lee Weingart, President of the Shaker Heights Country Club (SHCC), thanked everyone for the opportunity to speak again on behalf of the request of the rezoning and lot split. There have been some discussions in the community about this project, and maybe some misunderstandings of the facts. He will start by trying to correct some of the misunderstandings. He found the oldest map he could find of Shaker Heights, from the Van Sweringens in the early 1900's, showing the land that is currently SHCC. The land was deeded for a golf course by the Van Sweringen brothers. The club opened in 1913. It has been zoned park and recreation from the beginning because there is no other designation in the Zoning Code for a private golf course. That does not make it a public park, a wildlife refuge, or anything else that is a public area. This is private property within Shaker Heights. The property is owned by the Shaker Heights Country Club Company, not by the City of Shaker Heights, or by any other public entity. This is privately held land by the SHCC. He found a more current map of part of Shaker Heights to address the green space concern. The area they wish to designate for two single-family homes comprises 2.6 acres out of 125 acres of the SHCC. Of those 2.6 acres, almost 1 acre will be held not to be developed as part of the conservation easement or 100-year flood plain. Therefore of 125 acres, less than 2% of the green space that comprises the SHCC will be put forward for sale and development. Over $\frac{1}{3}$ of the land requested to be rezoned will be part of a conservation easement. There will be minimal tree removal. Most of the trees in the conservation easement or flood plain will not be removed, but there may be some tree removal on Parkland for purposes of remediating the site as well as building the homes. If someone builds a \$1 million home on Parkland they will not leave the front lawn bare of trees, they will replant the ones that are removed. There currently exists one driveway on Parkland that serves the tank battery house and gas well for the SHCC. They would be adding a second driveway for the lot to the east. The disturbance to the trees and the green space is minimal. They would eliminate the gas well behind the 14th green as well as the tank battery house which supports it, and the landscape waste organic site entirely not to be used again per the agreement with the City of Shaker Heights. They thought they put together a project which was unobjectionable. There were discussions 10 years ago of putting up 10 townhomes on this site which would have been objectionable. Neighbors would have had every right to say that is not right, and they should match the character and quality of the homes in the neighborhood. They are doing just that with two lots: one at 1.1 acres and the other at 1.3 acres. They are larger than any other lot on that street. Any construction of homes go before the Architectural Board of Review before it can occur. It is not a zoning issue to be considered according to the City Zoning Code ordinances. They will blend in with the neighboring homes. They believe they have put together an acceptable plan for the neighborhood. It may not be the best way for them to make money on that land. They would probably make more money with 10 townhomes, but they want to be respectful of the neighbors and so they put together this plan which they think does that. They began over 13 months ago on this project before the City Planning Commission. They invited 65 residents of the surrounding area to hear their plan, and about one dozen came. They talked about the project, removal of the organic waste site, the gas well and the tank battery house. They thought they had done well by the neighborhood by doing that. They went before the City Planning Commission who thought that was

great but they asked for the SHCC to do an environmental study of the land to see if there is any contamination and to see if the soil would support homes being built there. They did that at a cost of \$45,000 to the SHCC. They did a phase one environmental, which is basically a records check to see what has happened on the land over the last 20 years. They discovered that in 2006 dredgings from Green Lake pond were put on their property with their consent by the City. They did a phase two environmental where they bore into the soil to test the soil. Then that was extended because they found the presence of a hydrocarbon called benzo (a) pyrene (BAP). They did not find, which was remarkable, the existence of any elevated levels of fertilizers, pesticides, insecticides, herbicides, or anything you would expect from a golf course at any level exceeding the appropriate allowable level for this land. He then showed a map with an overlay of the development of the two homes and the area where there was some contamination. It is basically in the middle. Of all the areas they tested, this was the only area that had a level of BAP that was too high for residential development. Not too high to put a CVS there, or an elementary school, just too high to put a house. This is not a chemical dump site. This is not really about the chemical BAP, this is a land use discussion tonight. BAP is a naturally occurring hydrocarbon. It is a byproduct of asphalt streets among other sources. SHCC environmental consultant John Garvey will speak more on that subject. If you have a house in Shaker Heights with a tree lawn adjacent to a street there is a very good chance that you have BAP right now on your tree lawn, probably on your lawn, and probably inside your house. They have a higher concentration of BAP on their site than they expected. That was without question because they allowed the City to put dredgings from Green Lake pond on their property in 2006. It is concentrated in the area where the dredgings from Green Lake pond reside today. It is not on the golf course. It is not outside the area he delineated. The members of the public who are concerned about having walked their dogs or snow skied or run or walked on the golf course, you are not in any danger of any kind of contracting any form of cancer from the SHCC. Any suggestion to the contrary is completely fallacious. Their plan is to remediate the hydrocarbon on their property. They have been very clear about that from the beginning. At the City Planning Commission meeting, they were clear they would do that. They have not hidden the ball once from anyone in the City. They will do what they said they would. They will remediate based on the core samples that were taken. There were more than 13 core samples taken, and 7 showed a higher than permissible level of BAP. Those areas are where they will do the excavation and remediation. Soil will be taken to the depth of the contamination and removed by a professional contractor and taken to a licensed disposal facility which will be documented. They will then have their environmental consultant return to test the soil again to be certain that all of the BAP exceeding permissible limits is gone. Once they are convinced of that the SHCC will come back to discuss building homes on that site after it has been rezoned. The SHCC believes they are a good neighbor. They have been a neighbor in Shaker Heights for 106 years as the SHCC. They allow the public to walk, run, ski, and walk their dogs on their golf course. Not a single country club on the east side other than the SHCC permits that to happen. If you tried to walk your dog at Canterbury, you would be escorted off by the Beachwood Police. They allow the high school boys and girls golf teams to practice and play on their golf course. No one else does that. They allow public safety workers to play on their golf course on Monday afternoons when they are not working. They have the only fireworks show in town. The City discontinued its fireworks five or six years ago. They do not prohibit neighbors from coming onto the golf course to watch the fireworks on July 4th. They love it. They love having the relationship with the City where they know occasionally someone may ruin a green or step in a sand trap, but that is part of being an urban, suburban country club. They know their role in the community. In over 100 years the SHCC has asked Council for nothing. This a very simple request before Council tonight, to rezone a tiny portion of their property which they believe will help the neighborhood. It is a tiny request and impinges almost zero on the neighbors. The green space will be maintained throughout the golf course and mostly on the site. They are not a tax exempt organization

like a hospital. They pay \$200,000/year in property taxes, the vast majority of which goes to the Shaker Heights schools. They pay \$500,000 in sales taxes, the majority of which goes to the County and the State to fund very important programs. They pay \$60,000 in local income taxes. This year they estimate their tax bill to all the entities will be \$800,000, a significant amount of money to the neighborhood, the City, the County and the State. We believe this project will have great benefits for the community. They estimate each lot to be worth \$1.5 million when fully developed. That generates \$3 million in new property value in Shaker Heights. He asked who else is building homes in Shaker Heights these days. He believes not many people. To expand the residential tax base of Shaker Heights, the City should let the SHCC build two homes. That is probably two more than will be built the rest of the year. That is about \$100,000 in new property taxes for the Shaker Heights schools and library. They believe it will generate \$60,000/year to the City in the form of new income taxes from the owners of those two properties. The City Planning Commission met in May 2019 and considered the SHCC arguments, why the SHCC believed they were consistent with the revised ordinances of Shaker Heights, and how the SHCC met the requirements that Council should consider for this rezoning request. The City Planning Commission found the SHCC in compliance with the factors Council should take in consideration for this rezoning request. They made that finding of fact. For Council to overturn the finding of fact by the City's professional staff Council would need to demonstrate clear and convincing proof that they were wrong. There is no proof that they were wrong. There have been three Council meetings if you include tonight. The first meeting was in May with the public hearing in June. The SHCC believes the project proposed is a benefit to the community, City, schools, library, State and everybody involved. The SHCC believes it comports with the requirements of the City's ordinances. The SHCC believes Council should move forward tonight with a vote to approve their rezoning request. Not doing so in the mind of the SHCC creates a liability for the City that they don't want to address. He respectfully asks for Council to consider the SHCC request, their only request made to the City in 100 years, to let the SHCC rezone a tiny portion of their land to turn it into two beautiful Shaker estate homes and generate more revenue for the schools, the City, and the library. This will make the neighborhood better, eliminate the gas well, the tank battery house, the organic dump and clean up the contaminated site once and for all. It is in the hands of Council and he asks for their support.

Council member Mrs. Senturia asked about one of the maps.

Mr. Weingart explained the map showed the area with the level of BAP that is higher than permitted for residential development. The other parts of the testing area did not exceed the BAP level. All of the contaminated soil will be remediated to build the homes.

Council member Mr. Malone asked about extending the conservation easement to preserve the trees.

Mr. Weingart stated that $\frac{1}{3}$ of the entire property is already under an easement and can't be developed. That would take away a lot of the western lot's footprint. The SHCC already agreed with the City Planning Commission about what portion of the land would go into the easement and they are open to negotiations as required, but he believes having $\frac{1}{3}$ of the land in the conservation easement is already an impediment on selling the land.

Council member Mr. Roeder asked Mr. Weingart about his comments on liability to the City for not approving this request.

Mr. Weingart stated that he believes the SHCC rezoning request comports completely with the objective standards of the revised ordinances of Shaker Heights. They are property owners and they have property rights. If a different outcome occurs they will look at their options as property owners in Shaker Heights.

Council member Mr. Williams stated that he does not oppose this project. He is concerned because it takes into account an area of the Doan Brook that the SHCC is willing to preserve but we have Doan Brook representatives with concerns. He is concerned because what Mr. Weingart is talking about is needed. The SHCC is a private property issue and he would like to see the City get more money for the schools. That is a big issue for him but he is cautious about the impact of the Doan Brook. He understands Mr. Weingart met with Victoria Mills, Executive Director of the Doan Brook Watershed Partnership and the meeting went well. Mr. Williams would like an opportunity to speak with her so he can get a better idea. This is a private property right and the City is in a position to balance those rights with the impact on the community. He does not see those imbalanced, but he is not sure about the impact. He has also received a number of emails and phone calls from residents adjacent to the development. Their concerns are based on their belief that this is not a development that is consistent with what they believe should be there. He agrees this is a private property right, but this is the basis for his hesitance.

Mr. Weingart stated that the Ohio statute is clear on setbacks on riparian areas like the Doan Brook. The SHCC is honoring that setback by 75 feet. Along with the flood plain, they are far back from the south branch of the Doan Brook. Nothing will change with that so it is hard for him to understand what concern there would be with Doan Brook.

Council member Mrs. Moore asked the City's Law Director William M. Ondrey Gruber about the Van Sweringen deed referenced by Mr. Weingart and the intent or content of that deed. She believes it was for 99 or 100 years and now has expired, and expressly spoke of the givers to have this land held as parklands through the SHCC. She is not sure of the actual details so would like to know if the intent was to make sure that the land reverted to the City of Cleveland if it were no longer owned by the SHCC or by the Van Sweringens.

William M. Ondrey Gruber, Law Director, stated that as Mr. Weingart mentioned, the property was sold by the Van Sweringens to the SHCC directly and they have owned it since 1913/1914. The deed restriction placed on it was that the SHCC was to maintain a golf course on the land and if it no longer wanted to do so it was to dedicate or convey the land to the City of Shaker Heights to be used as a park for the public and not for any mercantile, manufacturing, residence or other business purposes. That was for a period of 99 years through August 2013. The City of Cleveland has never had any claim over this property. It is not part of the Shaker parklands owned by the City of Cleveland. The deed expired six years ago. There is no restriction any longer, it has expired by law. One of the reasons the City rezoned all of the SHCC as parks and recreation was in order to protect it by zoning. That has the same effect essentially as the deed restriction. The SHCC cannot develop the two parcels without a rezoning.

Halle Moore of 16650 South Woodland asked if Council member Mrs. Moore could talk about a letter the City received from Victoria Mills. Mr. Weingart spoke about her at the public hearing touring the SHCC property.

Council member Mrs. Moore stated that she will read into the record the comments from Ms. Mills at the time of the vote if there is one.

Mrs. Moore also referenced Dr. Sekeres' comments from the June 24, 2019 meeting about carcinogens in the soil. She is trying to voice her strong feeling that this project should not pass. She feels that once the zoning is changed there is no going back. Once the trees are cut down there is no putting those back as well. This is a great concern of hers. She encouraged Council to take a look at the Facebook page *Protect Shakers Green Space*.

Geoffrey Ritts of 32 Lyman Circle stated that he would like to urge Council to enact the zoning amendment ordinance. It will broaden the tax base for the City and the schools and that is good for all the taxpayers of the City.

Michael Shaut of 3052 Warrington stated that he is a business owner in Shaker Heights and would like to endorse the proposal of the SHCC for rezoning.

Mark Genger of 2969 Manchester stated that he would like City Council to recommend approving the rezoning. He is a Shaker graduate with three kids in the school system.

William Dillingham of 16850 Parkland stated that he lives directly across from the proposed project. He has lived in Shaker Heights since 1943 and graduated from Ludlow Elementary, Woodbury Junior High School and Shaker Heights High School. He is in favor of this project. He was involved in dumping the Green Lake debris there when it happened. The SHCC did a wonderful thing by taking it on and saving the City a lot of money. This is something that Shaker Heights should do.

Mark Amaddio of 2951 Attleboro stated he is not in favor of the project. He urged Council not to back off from their questions regarding the project because the good neighbor the SHCC has threatened to take this to court if they don't get their way. He asked Council to use their common sense in this matter. We will never be able to get this type of land back in Shaker Heights once it is taken away. Both of those homes sit over the cancer causing area. He assumes that would be told to the people who purchase the property as well.

Kristen Bartels of 20020 Marchmont stated that she strongly supports the rezoning of this property for all the reasons already stated.

Bill Wilkinson of 2876 Attleboro stated that he is in favor of the rezoning. He lives very close to the area. The two primary reasons outlined by Mr. Weingart is fixing the eyesore of the dump and the tanks that are there and he also supports the schools where his children attend. He loves the community and the schools and is in favor of the improvement.

Laura Wheeler of 21059 Claythorne stated that she is in favor of the rezoning for all the reasons that have already been stated.

Bradley Wheeler of 21059 Claythorne stated that he is in favor of the project. He was president of the youth hockey program and to raise money for the City one of the challenges is always to keep the costs down for the players. This would be a good project for revenue coming to the City for years to come.

Richard Bauschard of 2974 Kingsley stated that he has been a resident for 37 years. For 24 of those years he was on the Architectural Board of Review. This project is consistent with the development projects that have been encouraged by Shaker Heights that he has seen for development of individual lots. It is consistent with raising the tax base in the City and he is in favor of this. He feels it makes a lot of sense for Shaker Heights.

Christian Bernadotte of 2711 Cranlyn stated that he is strongly in favor of this project based on the good he feels it will do for the community.

Trent Meyerhoefer of 2944 Winthrop stated that he has lived in Shaker Heights since 2001 with two children who graduated from the Shaker schools. He strongly supports the initiative and encouraged Council to support this project. It is responsible zoning, responsible development, and the land will be remediated. This is the way the land gets remediated and it is good for the community and his neighborhood.

John Hannon of 2969 Eaton stated that he strongly supports the rezoning. It will bring additional revenue to the schools and library, and will be consistent with the neighborhood.

Mark Eisele of 2915 Winthrop stated that he has lived in Shaker for over 26 years, he strongly supports this ordinance and urges Council to pass it.

John Ralph of 2903 Winthrop stated that he strongly supports this project and recommends passing it for all the reasons that were heard in excess. It is consistent with the architecture in Shaker Heights, the standards of Shaker Heights, and cleans the land which is not being cleaned now.

Matthew Carrier of 2891 Weybridge stated that he has been a resident since 1997, his children have attended the Shaker Heights schools, and he strongly supports this project.

Christopher Hemmelgarn of 19271 Shaker stated that he grew up on Parkland not far from this spot. He strongly supports the ordinance. He can definitively say as someone that walked on this parcel of land for many years growing up this was an eyesore. They never walked in this area in terms of green spaces in Shaker Heights. This was not a pleasant part of the City. He supports redeveloping it to support the tax base. He moved back to send his kids to Shaker schools and we could use the revenue. He urged Council to vote in favor of this.

Jim Doyle of 2950 Warrensville Center - Prescott Place Condominiums stated that he is a real estate developer so he is in favor of developing any land. When Mr. Weingart was talking about a developer approaching the SHCC and the City 12 years ago to develop multifamily units, he was the guy behind that project. He was doing it for selfish reasons: he wanted to make money, but more importantly he was looking for a place to reside. He was living in Pepper Pike at the time and wanted to move back to Shaker Heights. There was no inventory and he felt he could build 7 homes, put himself and his partner in two of them, and sell the other five. Looking back he believes the City made the right decision. It wasn't really an appropriate use for that land at that time. He feels the usage being proposed today as two single-family homes is very much in line with what should be approved tonight.

Mike Sotak of 17916 Parkland stated he has lived in Shaker Heights for over 20 years and this is the second home on Parkland where he has lived so he is very familiar with the neighborhood. He strongly

supports this proposal for all the reasons previously given and he feels the unselfish thing to do is invite two new families into Shaker Heights. He is surprised more people are not supportive.

Dr. Beverly Saylor of 3365 Braemar stated that she does not have an opinion on this proposal yet because she does not have all the information she needs. She has concerns as a geologist about issues relating to the gas wells that she has not heard addressed. The gas well is north of Doan Brook. The storage tanks which contain oil and brine are south of Doan Brook. If you get the oil and brine from the gas well to the storage tanks you need a pipeline. She has not heard that mentioned. State law says that if you are going to cap or close the well, you need to remove the pipeline which is potentially very damaging to Doan Brook. She needs more information from the SHCC about what their plans are with the pipeline and gas wells.

Council member Mr. Williams stated that in her email to Council, Dr. Saylor talked about the pipe, and he asked if there was anything in print for Council to learn more and if it could be removed by a state agency.

Dr. Beverly Saylor of 3365 Braemar stated that the Ohio Geological Survey is the state entity charged with keeping track of gas wells. You can find this gas well on their Ohio gas well locator and information on production from the gas well, when it was drilled, how deep, etc. She believes that Duck Creek Energy has to remove it and they are required to once the SHCC contacts them to have it removed. The SHCC can sign a waiver as the property owner and not remove the pipeline. She would like to know what the SHCC is planning to do and what is better for Doan Brook to remove or leave the pipeline. She would not want to be a property owner with a house on top of a pipeline connected to a gas well, even if it is plugged. She thinks there is a lot of information we don't know yet related to the gas lines. She urges Council to vote no until they know more information about the gas lines. According to state law if you drill a well in an urban setting you need to maintain the tanks free of brush and vegetation for the safety of the people. That organic dump on that site in her view is not free of brush and vegetation. They are not at this point with that dump meeting Ohio standards for the gas storage tanks. She recommends the SHCC clean up the dump first and then address the proposal. Other than that she is happy to have a couple of nice houses and some tax revenue. She just wants to see this addressed.

Jennifer Sekeres of 17100 Parkland stated that she is not a member of the SHCC. She is not opposed to this issue but she urges Council to pause. She does not think we have all the facts or information needed to make a decision. She is trying to take the emotion out of it and stick to the facts. She believes the compounds found there cause cancer, they are linked to cancer. If the soil is remediated there is still a chance that will not mitigate the chemicals there. Before we invite two new families, which she would love not just for the tax base but maybe her child would have a playmate instead of her, we need to make sure it is safe for those families. That is her main hesitation behind this. She also asked Council to seriously consider having oversight of the process. Living across from there, the dump is an eyesore. It is hard to keep organic waste in those things looking nice at all times and she is not expecting a pristine garden but she thinks the SHCC could do a better job at maintaining it. She does not think it is fair to give an option of looking at that eyesore or building a home.

Mark Murray of 16850 South Woodland stated that he fully supports the ordinance. He has a direct site line to that parcel from his backyard. They have no qualms with proceeding as talked about.

Ralph Dise of 19650 Marchmont stated that he has lived at this address for 21 years. He has also operated a business in Shaker Heights for 28 years in Tower East. He can see lots of green space from his office window at Suite 925. He is in full support of this zoning proposal. He is a neighbor of a SHCC. He lives on the SHCC and finds them to be outstanding neighbors. They are great stewards of that property and he is dumbfounded by the failure of some Shaker residents to truly comprehend what wonderful stewards the members of SHCC have been for 106 years.

William Plesec of 2919 Sedgewick stated that he has lived here for over 35 years. He fully supports this amendment and understands that the SHCC has environmental consultants that are onboard to address some of the issues that have been raised tonight. He supports them getting back to Council with their advice in that regard. This project is good for Shaker Heights, the schools, and the community in general.

Matthew Timmons of 22300 Parnell stated that he strongly supports and endorses the passage of this amendment to the zoning map. In addition to the positive tax and revenue benefits he has become convinced that this drives a positive environmental outcome because the entire premise of converting the site is around remediation and correcting the errors of the past.

Jeannette Timmons of 22300 Parnell stated that she supports the rezoning.

Marnie Anderson stated that she is in complete support of this rezoning for all the previous reasons stated.

Gus Kallergis of 2886 Courtland stated that he has lived in Shaker Heights since 2001 and he strongly supports this ordinance. The SHCC in his experience has been a good steward to this community. The outcome from this whether the tax revenue, or the development of unused space is clearly beneficial. Today is the first step. Council would be agreeing to allow the SHCC to rezone something from parks and recreation to residential. All of these other concerns will be addressed in that process. He encouraged everyone not to fall into fearmongering about all the potential bad things that will happen. They will get addressed. They are not being ignored. This is just the first step of allowing a private property owner to make a beneficial use of its land that benefits everyone here. He encouraged Council to vote for it.

Michael Abdalian of 23350 Stanford stated that he has been a resident of Shaker for some 55 years. He is a graduate of the high school and he fully supports the rezoning. If Council does rezone there is a lot more that needs to happen. He is confident that the Architectural Board of Review will do their job and we will have some wonderful homes built on this property.

Kelly Warner of 17000 Aldersyde stated that she supports the rezoning.

Subodh Chandra of 16201 Parkland stated that his family strongly opposes this project. They oppose the loss of green space. They are very concerned about the environmental concerns that have been raised including the pipeline issues. He asked Council to vote it down if they choose to vote, and if they decide not to vote and table this matter, to do so and study it thoroughly. He then asked Council to announce any further readings or anticipated votes a month in advance to give residents time to absorb the information, to react and be present. He believes they have seen a slightly distorted view in which there has been an opportunity by the SHCC to organize and rally its members. He found about this issue Saturday morning but he approaches the Council meeting with a sense of foreboding

and distress. As a resident on Marshall Lake downstream from Green Lake he is very concerned about potential contamination, the loss of green space, and loss of character of the neighborhood. He wants the community to have enough time to be thoughtful, deliberate and understand the science so they are not lobbied into this but instead have a thoughtful community discussion.

Kathy Dise of 19650 Marchmont stated that she has a business in The Dealership and was one of their first tenants. She is bullish on economic development here in Shaker Heights. She has 12 employees who pay taxes here as well as the taxes she pays on her home and business. She is dismayed that people feel there has not been thoughtfulness here because this has been going on for 18 months. She feels there has been a lot of thoughtfulness. She has been at these meetings and she has heard a lot of the comments on both sides. She believes most of them have been addressed. She is not sure where the feeling of this being presented all of sudden comes from when this is the fourth meeting. This is not new to the residents of Shaker. No one is trying to bamboozle anyone. She is concerned about the property values in Shaker and she thinks we are doing a great job here. The property values went up 3% in the last 5 years and they went up 52% in Lakewood. She thinks our taxes are part of that. This is a hard thing for the City. They are trying to figure out how they are going to develop services, and Shaker in a way that don't raise taxes. She is happy to pay the taxes but if there is a way to minimize them she would really appreciate it. She strongly approves this ordinance and hopes Council will vote for it.

Brian Cook of 3323 Stockholm stated that he is not a member of the SHCC. He is not against the proposed use. This is mainly how we are going to expand our tax base. A couple of homes would look great there. He has a real estate background and the small amount of benzene is not that big of a deal. It can be taken care of and remediated. With runoff there are a lot worse things that happen every day in Shaker that really don't get maintained, no offense to the City, that cause worse issues than will be happening there. If we did a retention basin or made other storm water accommodations that could be taken care of. Only to approve this because of an increase in the tax base is not the right thing to do. There are many other tax base increase options. The presentation suggested the trees would stay but the SHCC would restrict use by a future homeowner so that is inconsistent. The set backs are to protect the green space. Council is fully within its rights to determine how those buffers and side yards can be taken care of. To say that $\frac{2}{3}$ of the property is already protected is somewhat disingenuous because that portion is unbuildable as it is in a 100-year flood plain. Most of the coverages don't need to be as significant as they are shown, so protecting the trees in the front and side yard does not hurt the value. He is generally okay with the project but if it is approved it needs to be done intelligently, in a manner that respects the site lines with open space that is preserved.

Chris Ramsay of 15805 Chadbourne asked if there is precedent for this, or if we have had public green space reclaimed for residential use before. If at Horseshoe Lake someone has land and wants to build extra houses how does that happen. He also asked if we could build houses at Lower Lake. He likes tax based projects and his kids have attended the Shaker schools. His tax bill sucks so he is okay with anything we can do about that within reason. We are landlocked so we don't have any other space. He would probably love to live in one of those houses, but what precedent do we have. We only have so much green space. He asked what happens to the green space if other entities want to do the same thing. There is not enough green space in Shaker Heights. He believes we have more information to figure out.

Patricia Barz of 18040 South Woodland stated that she is a retired, non-practicing attorney but was the General Counsel for Cleveland Metroparks for 20 years. That colors her remarks tonight. She has lived in Shaker Heights since 1984 and her kids attended Shaker schools. She is thrilled with the community. Based on her experience she would urge Council to take advice from the Law Director. The starting point for their action is the ordinance that authorizes Council to amend the code. It specifically states that the power to amend the zoning ordinance is not arbitrary but one that may be exercised only when the public good demands or requires the amendment to be made. Several people here gave very persuasive remarks. Primarily close neighbors to the proposed property made strong statements about the impact they thought the development would have on their neighborhood. This does not indicate to me that the citizens support this and that the change is in demand. Similarly, the vote of the City Planning Commission was a split vote which is not a clear vote. The authority of Council in Ohio law is only what authority they are given by statute to be construed conservatively in favor of not changing things that affect the public. This is a serious concern. One thing that keeps communities like this stable is that despite the pressure, green space is protected. It is a primary factor why her family moved here in 1984. Her home backs up to the SHCC. Another relevant point is that the subject property is perfectly suitable for its current zoning classification and should be maintained in compliance with applicable ordinances and law. Compliance with requirements relating to the condition of the property should be addressed regardless of whether the lot split and rezoning is approved. She agrees with the other comments made about green space and environmental matters and she would like to include that by reference in these minutes. Two homes with 2% doesn't seem like very much but the added traffic, congestion, and buildings will be there. That green space can't be found again as several people have pointed out. We don't have that much of it. She is not in favor of approving the requested amendment and recommends that Council vote no or in lieu of that postpone the vote to learn more about a lot of fairly complicated environmental law.

Mayor Weiss thanked everyone for their thoughtful comments and questions. A number of questions were raised about the gas well and it is one of the items that had been agreed upon informally or proposed by the applicant which did not make it into the proposed conditions. At the minimum we would need to alter the conditions assuming everyone is in agreement as he suspects they all are.

Joyce Braverman, Director of Planning, stated that a gas well is regulated by the State of Ohio not by the City. We do not have any purview over it. She is not familiar with all of the state regulations. She believes Mr. Weingart has a plan for removing or filling that gas line, but that is a state regulation not the City.

William M. Ondrey Gruber, Law Director, stated that there are a couple different issues. One is the storage tank is in the way of the development so it would have to be removed so the question is if the pipeline will be removed or will they be waiving the necessity for Duck Creek to remove it.

Lee Weingart stated that he spoke with the owner of Duck Creek Energy last year before the SHCC approached the City Planning Commission. They are responsible for removing the well head behind the 14th green and the storage unit. He believes their plan is to flush the pipe, and fill it with sand. If there is an alternative that Doan Brook or the City wants, it is a state regulatory issue, but the SHCC is reasonable and will do what is best for Doan Brook as they have done. They have a plan in place and they have an agreement with the owner of the well. The well on the north side of Doan Brook will be removed and the pipe will either be removed or flushed and filled with sand. The tank battery house will be removed. There will be no trace above ground of that gas well.

Director Gruber asked if the environmental expert had an opinion on flushing and if filling the pipe was adequate.

Consultant John Garvey, Vice President of Partners Environmental, stated that the gas well line will be separated from the well head on the other side of the Doan Brook so there will no longer be a connection between the well head and the property. Filling it with sand is probably the least disruptive and the safest way is to abandon the pipe and leave it in place.

Council member Mr. Zimmerman stated that a couple times during the presentation Mr. Weingart made reference that the environmental consultant will address issues.

Mr. Garver stated that he has been doing this for about 30 years. This contaminant is something they work with virtually every day. BAP comes from the incomplete combustion of fossil fuels, wood and coal. Essentially it is fairly ubiquitous, almost always in urban sediment whether a stream or a lake, or anything that receives runoff from major roadways. Residential standards are at 2.3 parts per million, commercial/industrial is 62 and construction/excavation work is 1,000. The level at the site is 12.8 parts/million which is almost down to the residential level. While they are above residential standards this is something they see every day in urban areas. The way to clean it up is to remove it. It is common and very doable. It is not a very mobile contaminant. When you remove the sediment you are removing the problem. There is no lingering aspect. This contaminant is very well known.

Council member Mrs. Senturia asked how the sampling sites were chosen.

Mr. Garvey stated that it was pretty evident since there is a 12-15 foot high mound there which is the dredging that was dumped.

Mayor Weiss asked if additional testing is done after removal.

Mr. Garvey stated that the cleanup would require confirmation testing. This does not finalize anything, it only identifies the problem. They will then go in and do removal and follow up with confirmation testing.

Council member Mr. Roeder stated that some have argued to Council that the soil can't be cleaned up or when it is cleaned up there will be some potential dangerous chemicals left behind. He asked Mr. Garvey if he believes that is untrue and if in all cases the soil can be remediated to which he responded yes.

Mr. Garvey explained that they are not trying to do this chemically or underground where they are not able to see it. They can see the pile and they know it is from the sediment. It can be removed.

Mayor Weiss reiterated the options before Council this evening: postponing action for additional information; no one willing to second the motion; or someone can second the motion for a vote. He believes that different Council members have different concerns they have raised to Mr. Weingart, the Mayor or their colleagues which may make a difference for some of them.

Council member Mr. Zimmerman stated that he moved this motion and presented it multiple times on behalf of the City Planning Commission. His vote was affirmative, but this is Council's deliberation.

Council member Mr. Malone stated that he would like to see the conservation easement extended. He is not necessarily opposed to the project. He appreciates the SHCC's hard work on this and the hard work of staff. This has been a long process. We all want to see the site cleaned up and the land put to a better use than it is. He would love to see income tax generated. He would also like to preserve the existing green space and trees as much as possible. He would like to add additional conditions that the conservation easement could extend as he described earlier.

Council member Mrs. Senturia stated that she agrees and would appreciate another month rather than trying to figure that out right now. Council would have time to work out the details about finalizing the actual easement.

Council member Mr. Williams stated that he was informed by the Law Director that Council may impose additional conditions without going back to the City Planning Commission. In his mind that gives Council the opportunity to reflect on all of the particular points of view with respect to this issue. He is not prepared to endorse the project tonight, but is persuaded to get behind the project. He still thinks no one is speaking on behalf of the Doan Brook and adding additional conditions has merit.

Council member Mr. Roeder stated that what is challenging about this issue and why we are having a lot of discussion is that it pits some of our goals against each other. Many are focused on financial sustainability, and maintaining or improving the quality services we offer at a lower cost. This is an opportunity through the SHCC and our zoning to bring in two new homes, and additional tax dollars to the City, schools, and the library. That is attractive to many of us. On the other hand there is a potential loss of green space, potential environmental impact to the Doan Brook, and a potential chemical question. He has heard that people want more time to sort through and hear perhaps more perspectives or a City perspective on the environmental impact on this to balance against the other perspectives.

Council member Mrs. Moore stated that she is happy to speak on behalf of the Doan Brook. However, she is not going to speak and take a position if there is no second to the motion or if the will of the majority of the Council is to wait for more information.

Council member Ms. Williams stated that she is not against this project. Initially when it was presented it made sense for the reasons that Mr. Roeder alluded to, but there is no question that there are chemicals on the land. There is no question that the land right now cannot be used for residential use. She is not certain why we are being asked to rezone for residential use when this property can't be used for the intended purpose. She thinks we are going about this backwards. She would like to see the area cleaned up before we consider this. In thinking about this and hearing from residents on both sides, she thinks about what is required of the residents to maintain their properties. She also knows the SHCC does not have any of those obligations through our ordinances, but that does not mean we should ignore the responsibility of having the land in the condition it is in. For that reason she will vote against it. She is not comfortable with making a significant and unusual change to our zoning law when the property cannot be used for the intended purpose.

Council member Mr. Malone asked if it is typical for us to rezone and then expect the applicant to clean up the site. There may not be precedent for this but he asked the reason this is happening first, and the order it is happening.

Mayor Weiss stated that this is an unusual situation procedurally. If there is property that is contaminated that is in violation of environmental laws today, we would require remediation in advance of the zoning change. In this case, it is not in violation of current law in its current state, for its current use. He has not had situations where the property is in compliance today under one zoning provision and would not be permitted under a different zoning provision. There is a little bit of a chicken and egg scenario here. There is no incentive for the SHCC to remediate if in fact they don't know they can use it for the new zoning.

Council member Mr. Zimmerman asked if that is addressed in the condition itself, i.e., the City is not going to approve the rezoning unless the SHCC commits and performs the remediation.

Council member Mrs. Moore stated that is incorrect. She asked the Planning Director that question. There is the possibility that the remediation will not occur if the land was rezoned.

Mayor Weiss stated that everyone acknowledges that with the zoning change they are uncomfortable if the remediation doesn't happen, but there is no question that Council could vote to rezone, the SHCC never sells the lots, they never develop it and it remains as it does today. His sense is that there are enough questions remaining that unless someone is willing to second the motion he suggests postponing it for 30 days and vote at the next regular Council meeting. This gives us an opportunity to tweak some of the language including adding the gas removal, and to make sure we have all the information that anyone wants related to the removal of the gas well. He thinks that there are some benefits that people acknowledge between the conservation easement, the riparian borders, removal of the gas well, removal of the dump, no other dump elsewhere at the SHCC, and the intended environmental remediation as well as the tax benefit. There are benefits. However, there are concerns that people have stated. He feels we should take the next 30 days to pin down the last questions.

Council member Mrs. Moore stated that in view of the fact that Victoria Mills wrote a memorandum that was not shared publicly she would like to share some comments on the Doan Brook. Mrs. Moore has served for the past 16 years as liaison for Council on the Board of the Doan Brook Watershed Partnership. She now serves as the President of the Board which represents the cities of Cleveland, Cleveland Heights and Shaker Heights. She understands the importance of protecting and restoring our watershed for the entire region as a primary natural resource. Rezoning, even a small parcel of 2.6 acres for residential development, can negatively impact our watershed. Forest buffers, the breath of the forest in a given land abutting a stream, protects streams and local drinking water supplies by intercepting and processing excess nutrients, sediments and pathogens. They also prevent them from entering streams. 100 feet of stream side forest will adequately protect the physical, chemical, and biological characteristics of most streams. Forest buffers restore the natural in stream conditions of temperature, oxygen, and food. She understands there will be a forest buffer of sorts that will remain and is making the argument so that people understand that a substantial forest buffer 100 feet close to the stream can make a significant impact on the quality of water and hence the natural resource. Streams bordering trees are up to 2 to 8 times more effective than those with plain grass borders, such as in a country club, in processing substances like excess nitrogen. The other argument is that effective storm water management which is a major thrust in our area, is enhanced with trees, and riparian borders which are planted borders along streams which absorb excess storm water rather than channeling it into an overload of storm sewers that no longer have the capacity unfortunately to hold all the runoff from our urbanized impervious surfaces. When we increase these impervious surfaces such as when we develop and create homes, driveways, and other paved surfaces that don't allow storm water to penetrate or which lacks trees, and the roots of the trees don't absorb the storm water to the same capacity, we overload the storm sewers that no longer have the

capacity to hold all the runoff from our urbanized impervious surfaces. When we increase these surfaces and add storm water runoff that is not absorbed we overload the sewers and add unfiltered storm water runoff to the Doan Brook and our Shaker Lakes. We have a very high tax threshold in Shaker. This City Council is extremely sensitive to that argument. However, she would like to make another argument and that is that we have just dedicated the next 7 years of our community cost share dollars from our sewer fees toward dredging costs of Green Lake. Doan Brook through its dams has created our Shaker Lakes. Every tax dollar we spend to preserve our Shaker Lakes and improve their water quality begins at the Doan Brook. As important as it is to increase our tax base, it is equally important to realize that tax dollars can be saved when we protect and restore our natural resources. One of the main goals of the City is to attract and retain residents. Based on our last community-wide survey that determines what attracts people to Shaker Heights, much to some of our surprise, is our beautiful green and tree lined neighborhoods and parkland. Preserving and not eliminating or reducing our parklands as the jewel that they are, can only help us attract and retain residents. This is obviously an argument that can be added to the tax argument that is very powerful. Preserving our parklands is not simply a goal derived from our last Shaker survey, it was a goal of the Rockefeller family when they originally deeded the land that is the subject of tonight's residential rezoning proposal. When the Rockefeller family deeded the land to the Van Sweringens it was for 99 or 100 years. It made the parklands, now privately owned by the SHCC, one of the very few portions of the Doan Brook that is privately owned. However, the deed states that if the parklands does not remain under the ownership of the SHCC, per zoning it is considered parks and recreation. The intent of the actual deed was for the parkland to remain parkland. It is clear that if you examine all the deeds from all the parklands that are now currently leased to Cleveland, Cleveland Heights and Shaker Heights the intent was clear. She would like to make the argument that the intent of the original owners for our parklands to have them remain in perpetuity as green space is a powerful one that we should consider. Having them rezoned for residential development while a very powerful argument to City Council who are cost conscious and concerned with our tax threshold, nonetheless remains a fact.

Law Director Gruber stated that he is not sure who originally owned these parklands, or familiar with that part of the history.

Council member Mr. Zimmerman stated that he has heard enough and is personally ready to move forward with this, but if the consensus is to defer this for further information that makes perfectly good sense. He thanked everyone. This has been a civil, professional and informative discussion in the best tradition of Shaker Heights. He thanked the residents who came to express themselves with very thoughtful comments. He learned a lot from all of them. He encouraged the applicant to continue to interact with Council. There are contentious issues that come before Council from time to time and they listen and then cast their vote. There are people who are going to be impacted by this no matter what the outcome is. The best possible result would be to have as much consensus as possible from the residents. There may not be perfect consensus but at least if there is continued outreach addressing the issues that can only be positive.

Mayor Weiss stated that this item would remain on third reading.

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Ordinance No. 19-76, by Ms. Williams, accepting the recommendations of the City's Tax Incentive Review Council ("TIRC") to continue the existing development and community reinvestment area agreements for tax exemption and payments in lieu of taxes (PILOTs), pursuant to Ohio Revised Code Section 5709.85, and declaring an emergency.

Joyce Braverman, Director of Planning, stated that the Tax Incentive Review Council (TIRC) met on July 23, 2019 and is charged with reviewing current tax incentive agreements on an annual basis. By statute the TIRC must meet annually. We have three types of extensions that they reviewed: Chapter 725 Urban Renewal; Tax Increment Financing (TIF) Section 5709 at the Van Aken District; and Community Reinvestment Areas which allow for tax abatement. The Chapter 725 projects are at Shaker Town Center and were developed to collect payments in lieu of taxes (PILOTs) derived from property taxes paid by owners of the various developments and used to pay down our bond issued to pay for public improvements. These agreements are for Avalon Station I, Sussex Courts, CVS, Library Courts, and Compass Storage. The TIF agreements are for RMS and the school district for different portions of Van Aken. One is for Shaker Plaza where the schools get 76%, and one for Van Aken Center, the main development. In 2018 PILOTs were collected for the Shaker Plaza but not yet for the Van Aken Center. We have three CRAs: at Warrensville/Farnsleigh which includes Le Chaperon Rouge and Shaker Rocks; Transit Village; and South Moreland. The one at Warrensville/Farnsleigh is the only one with taxes collected. These agreements are mostly based on jobs. Le Chaperon Rouge did meet their job goal, and Shaker Rocks had not opened in time to meet their job goal at that time, but they will for next year. The Transit Village CRA has a 100%, 10-year tax exemption. 12 units have been built and no taxes were exempted in 2018, but they were in 2019, so they will get reviewed next year. Per state law, City Council must act on the TIRC recommendation within 60 days of the TIRC forwarding their findings to Council. Their findings are that the exempted properties are in compliance with their agreements and the exemptions should continue for another year. This item is requested as an emergency and with a suspension of the rules in order to meet the timing requirements from the state.

Council member Mr. Malone stated that this item was reviewed and unanimously approved by the Finance and Administration Committee. This is an annual requirement of state law that the TIRC meet and an opportunity for the Finance and Administration Committee to take stock of the PILOTs. Considering this was an unusual bump from CVS making up for prior underpayments in the amount of \$256,000, providing more than our debt service obligation, we continue to see improvements in terms of the reduction of the subsidy that the City has to pay in relation to servicing its debt.

It was moved by Ms. Williams, and seconded by Mrs. Moore, that the rule requiring ordinances to be read on three different days be suspended and Ordinance No. 19-76 be placed upon its final enactment.

Roll Call:	Ayes:	Mr. Malone, Mrs. Moore, Mr. Roeder, Mrs. Senturia Ms. Williams, Mr. Williams, Mr. Zimmerman
	Nays:	None

Motion Carried

Moved by Ms. Williams, and seconded by Mrs. Moore, that Ordinance No. 19-76 be enacted as read.

Roll Call:	Ayes:	Mr. Malone, Mrs. Moore, Mr. Roeder, Mrs. Senturia Ms. Williams, Mr. Williams, Mr. Zimmerman
	Nays:	None

Ordinance Enacted

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Ordinance No. 19-77, by Mr. Malone, amending Ordinance 15-60, an Ordinance appropriating State Capital and County Grant funds for public improvements in the Van Aken District, as amended by Ordinance Nos. 15-89, 15-118, 16-81, 16-99, 17-87 and 18-02; by appropriating Cuyahoga County Department of Development 2019 Supplemental Grant in the amount of \$50,000 to fund pedestrian and transit rider improvements in the right-of-way which contains the Greater Cleveland Regional Transit Agency busway adjacent to the Blue Line Rapid Transit Station in the Van Aken District and declaring an emergency.

Joyce Braverman, Director of Planning, stated that this item is to request an appropriation for a County grant in the amount of \$50,000 to make landscape improvements on the busway, trees in the median, as well as the bus shelters at the Van Aken district. Council authorized the application of this grant in November 2018 and we were successful. Construction bids were opened earlier this month and we will award the bid once the funds are appropriated. This item is requested as an emergency and with a suspension of the rules to accept the construction bid and do the project this fall.

Council member Mr. Williams asked if the funds were only available for transit oriented development.

Director Braverman stated that this is a very flexible grant funded through County casino money.

It was moved by Mr. Malone, and seconded by Ms. Williams, that the rule requiring ordinances to be read on three different days be suspended and Ordinance No. 19-77 be placed upon its final enactment.

Roll Call:	Ayes:	Mr. Malone, Mrs. Moore, Mr. Roeder, Mrs. Senturia Ms. Williams, Mr. Williams, Mr. Zimmerman
	Nays:	None

Motion Carried

Moved by Mr. Malone, and seconded by Ms. Williams, that Ordinance No. 19-77 be enacted as read.

Roll Call:	Ayes:	Mr. Malone, Mrs. Moore, Mr. Roeder, Mrs. Senturia Ms. Williams, Mr. Williams, Mr. Zimmerman
	Nays:	None

Ordinance Enacted

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Ordinance No. 19-78, by Mrs. Moore, authorizing a personal services contract with RMS Investments for the period August 19, 2019 through August 19, 2020, for the Van Aken District Clean and Safe Program in an amount not-to-exceed \$44,559.10, and declaring an emergency.

Joyce Braverman, Director of Planning, stated that we just completed our first year of the Clean and Safe

contract with RMS at the Van Aken district. This program is run by the Downtown Cleveland Alliance (DCA) and RMS administers the contract with DCA. Last year it was financed by RMS, the City, Tower East, and University Hospitals. This request is to authorize a new contract from August 2019 to August 2020. Services include trash removal, power washing, weeding, enhanced sense of safety, safety escorts, and look out for responding to unusual activity. DCA is requesting a 5% increase this year in the amount of \$1,283 more for the City. The total contract is \$159,139 for all the services, of which the City funds 28%, or \$44,559.10. The Neighborhood Revitalization and Development Committee discussed the first year activity report. This item is requested as an emergency and with a suspension of the rules so RMS may enter into a new contract since it has just expired.

Council member Ms. Williams stated that this item was reviewed and unanimously supported by the Neighborhood Revitalization and Development Committee.

Council member Mr. Malone stated that this item was reviewed and approved by the Finance and Administration Committee. The expectation when this was presented last year was that there would be a business improvement district by this point in the Van Aken district. That has not come to fruition so the City will rightly shoulder some of the burden again. If we are going to be in the business of funding this we should also think about funding something for the Lee Road corridor as well. He was at a meeting of the Lee Road merchants with the new Economic Development Director Laura Englehart, and learned that a couple of the merchants have been walking along Lee picking up trash on their own on a weekly basis. As great as this program is on Van Aken he would like to see something comparable there. It might look different on Lee Road and maybe it does not need to be as frequent but he would like Council to think about that as we head into budget season.

Council member Mrs. Senturia asked about how these are funded. She would like to know how other cities are handling these. She thought this was going to be a one-time payment. She also asked if we should be thinking differently if this is long term.

Mayor Weiss stated that it remains open at the moment. Some of his concern was that following on the heels of substantial reappraisals and property tax increases, there was already some concern expressed by a number of the smaller businesses. Discussions have continued on with some of the other owners in the district including our corporate center as well as some discussions with University Hospitals. He feels this is the right thing to do until we settle some of that. It is not off the table but we may need to think about it in a broader context.

It was moved by Mrs. Moore, and seconded by Mr. Malone, that the rule requiring ordinances to be read on three different days be suspended and Ordinance No. 19-78 be placed upon its final enactment.

Roll Call:	Ayes:	Mr. Malone, Mrs. Moore, Mr. Roeder, Mrs. Senturia Ms. Williams, Mr. Williams, Mr. Zimmerman
	Nays:	None

Motion Carried

Moved by Mrs. Moore, and seconded by Mr. Malone, that Ordinance No. 19-78 be enacted as read.

Roll Call:	Ayes:	Mr. Malone, Mrs. Moore, Mr. Roeder, Mrs. Senturia Ms. Williams, Mr. Williams, Mr. Zimmerman
	Nays:	None

Ordinance Enacted

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Ordinance No. 19-79, by Mrs. Moore, approving and authorizing execution of a Purchase Agreement under the City's Side Lot Program, for the sale of the City-owned property located at 3643 Avalon Road, Shaker Heights, Ohio, for a purchase price of \$50.00, authorizing the disposition of City-owned property without competitive bidding, and declaring an emergency.

Kamla Lewis, Neighborhood Revitalization Director, stated that this item is to authorize a purchase agreement for the purchase of a City-owned vacant lot at 3643 Avalon Road as part of the City's Side Lot Program in the amount of \$50. The applicants meet all the requirements of the program and plan to make improvements of approximately \$3,325. Previously, Council member Mr. Roeder asked for research on the change in value of lots that had been acquired which have been included in the memo distributed. The market value of properties which have been acquired with City-owned vacant lots adjacent and consolidated have increased by an average of \$20,000 which represents a 14% increase in value. This item is requested as an emergency and with a suspension of the rules so that the homeowners may proceed with the necessary steps to do the consolidation, survey, etc. There are approximately 235 City-owned vacant lots.

Council member Ms. Williams stated that this item was reviewed and supported by the Neighborhood Revitalization and Development Committee.

Council member Mr. Malone stated that this item was reviewed and approved by the Finance and Administration Committee.

It was moved by Mrs. Moore, and seconded by Ms. Williams, that the rule requiring ordinances to be read on three different days be suspended and Ordinance No. 19-79 be placed upon its final enactment.

Roll Call:	Ayes:	Mr. Malone, Mrs. Moore, Mr. Roeder, Mrs. Senturia Ms. Williams, Mr. Williams, Mr. Zimmerman
	Nays:	None

Motion Carried

Moved by Mrs. Moore, and seconded by Ms. Williams, that Ordinance No. 19-79 be enacted as read.

Roll Call:	Ayes:	Mr. Malone, Mrs. Moore, Mr. Roeder, Mrs. Senturia Ms. Williams, Mr. Williams, Mr. Zimmerman
	Nays:	None

Ordinance Enacted

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Motion for Renewal of All Liquor Permits

Mayor Weiss stated that this is the time of year when the City may object to the renewal of a liquor permit for any business in the community which has a liquor license. We are required to either object or not for existing licenses. The Administration is recommending not objecting to any existing liquor licenses other than that for See Investments LLC, dba Swerve Grill.

William M. Ondrey Gruber, Law Director, stated that this is an extreme case and because of the long history of problems at this address, there is a proposal to object to the renewal of this particular liquor license. There is no notice that goes to the applicant. They know they have to renew and that the City has a right to object as part of the law. This is just the beginning of the process. If Council decides to object the state will hold a hearing and we are asking it be held in Cuyahoga County. The applicant will have a full right to be heard. Often in these cases there is an opportunity for the City to meet with Swerve Grill before the hearing and discuss various ways to improve their operation to avoid a lot of the problems that are going on and potentially resolve the matter before the hearing. We have made a number of attempts to do this in meetings with both the owners of the building and the owner of the restaurant bar itself. The restaurant bar is operated in a manner that demonstrates a disregard for local ordinances and with respect to the neighborhood so that substantial interference with public decency, sobriety, peace, and good order will result if the renewal of the permit is approved by the state. We believe there is sufficient evidence to bring to Council a proposal to object to this liquor permit renewal.

Council member Mr. Williams stated that he was present at the Board of Appeals hearing where he heard all the evidence from the Police Chief and representatives of Swerve Grill. He got from the testimony that improvements are in progress, but he does not know the status of those improvements. Our Police Department is closely monitoring what is going on. He did hear from some of the residents in the condominiums who did not want to be identified but felt things have changed but there are still concerns. The decision of the board of appeals is available for viewing.

Council member Mr. Malone asked if the effect of Council's objection will allow Swerve Grill to continue to operate until the hearing, and that it does not completely revoke their license but simply challenges it. He also asked what kind of commitments we are looking for from them to resolve this to withdraw our objection.

Director Gruber stated that is correct. The decision of the Board of Appeals was spelled out during the hearing and the Police Chief also made these same suggestions at a meeting held with the owners of the building and a representative from Swerve Grill. Those include things like adding security on the exterior in the parking lot where there has been a lot of these problems, calling the Police immediately

Motion for New Liquor Permit: Picnic Hill Market Café Inc.
20621 Fairmount Blvd.

No objections were voiced by Council.

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At 9:41 p.m. it was moved by Mrs. Senturia, and seconded by Ms. Williams that Council go into an executive session to discuss the purchase, sale or the development of real property where premature disclosure of information would give an unfair competitive or bargaining advantage to a person, or otherwise adversely affect the general public interest.

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At 10:10 p.m. Council returned to the regular meeting.

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The Mayor invited members of the audience to comment on any issues.

No comments were offered.

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There being no further business before Council, the Mayor adjourned the meeting at 10:10.

DAVID E. WEISS, Mayor

JERI E. CHAIKIN, Clerk of Council