

THESE MINUTES ARE SUBJECT TO FORMAL APPROVAL BY THE WYOMING
PLANNING COMMISSION AT ITS REGULAR MEETING OF AUGUST 21, 2012

PLANNING COMMISSION
MINUTES OF JULY 17, 2012
CITY COUNCIL CHAMBERS
CITY OF WYOMING, MICHIGAN

MEMBERS PRESENT: Arnoys, Bueche, Goodheart, Hegyi, Micele, Postema, Spencer,
Weller, Woodruff

MEMBERS ABSENT: None

STAFF PRESENT: Cochran, City Planner
Rynbrandt, Director of Community Services
Lucar, Administrative Secretary
Sluiter, City Attorney

Chair Spencer called the meeting to order at 7:00 PM.

APPROVAL OF MINUTES

The minutes of June 19, 2012 were approved as written.

APPROVAL OF AGENDA

Changes were made to the original agenda, including a new Item No. 1 – “Determination if Chateau Village Apartments is properly before the Planning Commission in accordance with the Planning Commission Rules of Procedure,” and moving Election of Officers to the end of the agenda. The amended agenda was approved as presented.

PUBLIC COMMENT ON NON-PUBLIC HEARING AGENDA ITEMS

Dean Rietberg, 1893 Camrose Ct SW, indicated he had submitted a letter requesting that consideration of the Chateau Village Apartments site plan be taken off the agenda. He asked that this item be deferred to give the petitioner and neighbors more time to reach a consensus on the project. There have been some concessions made, but there still needs to be more discussion regarding deficiencies in the plan.

Phil Nelson, 4584 N. Camrose Ct., agreed with both the letters submitted by Mr. Visser and Mr. Rietberg regarding the Chateau Village Apartments proposal. In Mr. Visser’s letter he quotes City Ordinance 90-1004(3) which states “. . . Walls, berms, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and the privacy of adjacent

uses.” Also he quotes wording in the Master Plan which states “. . . the city must take steps to prevent neighborhood deterioration and declining property values.” The words “shall” and “must” in these texts is mandatory wording. He did not believe the site plan in its current form should be approved.

Donald Visser, 1901 Camrose Ct SW, referred to the letter he had submitted to the Planning Commission. He pointed out, if the Planning Commission approves the site plan in its current state, then there is no incentive for the developer to make any type of future concessions with the neighbors. The site plan can still be improved. Technically, the property is still zoned R-1 until tomorrow, July 18th.

Jon Dunbar, 4592 N. Camrose Ct, concurred with the letters from Mr. Visser and Mr. Rietberg. He asked that the site plan be tabled until the developer and neighbors can reach an agreement. He thought the Planning Commission should be disappointed in how the City Council continues to overturn their decisions.

Jamie Dunbar, 4592 N. Camrose Ct, pointed out that the citizens of Wyoming are at the top of the City’s organizational chart, then the government officials. Many people in the city do not want more apartments. She asked that they listen to the voices of the people in making their decision.

Lenore Burnett, 1885 Camrose Ct SW, noted her property directly abuts the property to be rezoned. She thanked the Planning Commission for listening to all sides of this issue. She felt the residents and tax payers were ignored at the City Council level.

AGENDA ITEM NO. 1

Determination if Chateau Village Apartments is properly before the Planning Commission in accordance with the Planning Commission Rules of Procedure.

City Attorney Jack Sluiter indicated he was asked to review the Planning Commission Rules of Procedure and give an opinion whether the Chateau Village Apartments site plan is properly before the Planning Commission. The decision will ultimately be up to the Planning Commission whether they choose to reconsider this item. The Rules of Procedure do allow the Commissioners to consider it. There would normally be a six month waiting period, with the following exception in Section 10(b) when there has been a change in circumstances and conditions that would materially affect the previous decision of the Planning Commission. The significant change in circumstance is that the property is now zoned R-4 Multiple Family Residential. He also pointed that the June 19th Planning Commission vote to recommend denial of the site plan failed on a vote of 4 yes – 3 no (5 votes were required for approval), which was technically a positive vote, which would be difficult to defend in a court of law. He also referred to his letter of opinion dated July 11th, stating that if the site plan meets City requirements according to Section 90-1004 of the City Code, it must be approved by the Planning Commission. The Planning Commission first needs to decide whether the site plan is properly before the Planning Commission in accordance with its Rules of Procedure.

Motion by Postema, supported by Woodruff, to not consider the Chateau Village Apartments site plan because the request does not meet the conditions of Section 10 of the Planning Commission Rules of Procedure. Discussion followed.

Postema asked City Attorney Sluiter how this can be considered a material change in circumstances and conditions. Attorney Sluiter explained the rezoning to R-4 was not final until the City Council approved it in two readings. Postema asked if it could become precedence setting for applicants to make a second submission for approval when there are a number of Planning Commissioners absent. Attorney Sluiter thought this vote was a unique circumstance because the motion failed without a super majority. He did not think they would be setting a negative precedence in reconsidering the site plan. Goodheart thought there may be a problem with the language of the ordinance requiring 5 votes to approve. Attorney Sluiter indicated it is difficult to defend an action of this body or the City Council when there is not a super majority.

Chair Spencer questioned the benefit of waiting six months to reconsider the site plan. Arnoys pointed out there is a potential for litigation on either side. He thought waiting six months would allow the developer and neighbors to come to a resolution, which may prevent litigation. Postema agreed. Micele asked, if both parties come to an agreement before the six month waiting period, could it possibly be reconsidered earlier. Attorney Sluiter indicated this would be a decision of the Planning Commission.

Weller remarked that it would be beneficial to vote on the site plan tonight with all members present. He thought any further changes to the site plan would have been made by now.

Bueche thought the neighbors were suggesting that the developer has not made revisions to the site plan, which is not the case.

Chair Spencer felt that, if the developer was willing to make further concessions regarding the site plan, he would have done it by now. There have been concessions made. She pointed out he has entered into a voluntary development agreement with the city.

Woodruff pointed out, if they have more time for negotiations, perhaps the developer will come back to the Planning Commission sooner than six months.

Goodheart expressed his concern about opening up the City for a lawsuit because the property is now zoned for R-4 and it meets the site plan requirements according to the City Ordinance. He asked, if there were a minor change to the site plan, could it be considered before six months? Attorney Sluiter replied it would have to be a substantial change. Goodheart thought it did not make sense to wait six months for the same outcome.

Postema noted, if the site plan is approved there may well be a lawsuit by the neighbors. If the Planning Commission does not consider the request for six months, the developer does not have just cause for litigation because the Planning Commission is following the Rules of Procedure. If the neighbors and the developer can come to an agreement, then the risk of litigation is not there.

Postema noted that the site plan does not meet all the ordinance requirements because it is a landlocked parcel which is a violation of the Zoning Ordinance. (Revised 9/18/12)

Chair Spencer pointed out the zoning change is a substantial change and the site plan meets all the ordinance requirements. A lawsuit is very likely from the developer.

Goodheart asked the worst case scenario for the city as far as litigation. Attorney Sluiter replied, if the Planning Commission reconsiders the site plan and turns it down without proper rationale, the City would most likely lose the court case. If the Planning Commission does not reconsider it, there is a good chance it will end up in litigation and a good chance the City will lose.

A vote on the motion carried 6 – 3, with Bueche, Goodheart and Chair Spencer opposed.

AGENDA ITEM NO. 2

Request for Site Plan Approval for Chateau Village Apartments Phase 4. The property is located at 1952 – 44th Street, SW (Section 27) (John Lee Koetje)

(See action taken in Agenda Item No. 1 above.)

AGENDA ITEM NO. 3

Request for Special Use Approval for Pit Stop Mobil Service Station. The property is located at 2257 Chicago Drive, SW. (Section 3) (J & H Family Stores) (Includes Site Plan Approval)

Cochran noted he received a revised site plan from the petitioner just before the meeting. He distributed copies of the revised site plan to the Commissioners. The changes included moving the building back farther to add parking in the front, adding landscaping along the west side of the property, and adding a loading zone for deliver vehicles on the back side of the property.

The petitioner proposes to demolish the existing service station building and reconstruct it with a new 4,000 square foot building. Existing gasoline and diesel pumps, canopies and curb cuts will remain. Additional paving and parking will be included. The building will include a Subway restaurant without drive through service.

On July 3, the City Council approved in final reading the Zoning Code amendment to allow service stations with restaurant facilities contained within the building to be allowed by Special Use Approval from the Planning Commission in the General and Light Industrial zoning districts.

The following standards for Special Use Approval shall be considered by the Planning Commission, as described within Section 90-761 (3) of the Zoning Ordinance:

- a. The possible substantial and adverse effect on neighboring property.

The existing service station has been operating for several decades. The use provides refueling and convenience products to adjoining businesses, nearby residents, and commuters along Chicago Drive. The enlargement of the building will allow a greater range of convenience goods, along with a restaurant, to expand upon the services to this area. No adverse effects will be imposed on neighboring properties.

- b. The consistency with the spirit, purpose and intent of this chapter.

The Special Use provisions of the ordinance allow the Planning Commission discretion in whether to establish land uses within a particular area of a zoning district. As stated, this use has been ongoing from this site for several decades. The proposed use is consistent with the intent of the chapter.

- c. The possible adverse effect upon traffic as related to the streets, churches, schools and any buildings within the immediate area.

The property has access to Chicago Drive. Traffic volumes are about 13,800 vehicles per day, which is relatively light for this thoroughfare. No adverse traffic impacts are anticipated.

- d. The tendency of the proposed use to create any type of blight within the immediate area.

The investment into, and redevelopment of this property, will be of benefit to the north Wyoming area. No blighting influence will occur to neighboring properties.

- e. The economic feasibility for the area.

The proposed use appears financially viable.

- f. Any other factor as may relate to the public health, safety and welfare for persons and property.

Staff has no additional comments.

- g. That all other provisions of this chapter are met.

Staff has no other concerns.

Staff had the following added site plan comments:

1. The site's basic operational structures will remain with this redevelopment. There is no front yard greenbelt. The existing lawn area, including the freestanding

signage, is within the Chicago Drive right-of-way. There is no ability to provide a greenbelt and landscaping without total reconstruction of the entire site. As such, staff is not recommending site improvements in these regards.

2. The entire property lies within the 100 year floodplain of the Grand River. Verification will need to be provided to the Building Inspections Department that the new building will be constructed above the floodplain elevation.
3. The Engineering Department requires storm sewer computations for the proposed improvements. An oil-grit separator is required in the storm sewer system. The final stormwater and utility plans shall be approved by the Engineering Department.
4. A loading zone, 10 feet by 50 feet, shall be designated on the site plan.
5. The proposed façade plan is acceptable.

The Development Review Team recommended the Planning Commission grant Special Use Approval for Pit Stop Mobil per Staff's Findings of Fact. Staff also recommended deferring the Site Plan Approval one month for more thorough staff review of the revised site plan.

Chair Spencer opened the public hearing.

Ken Malik, President of the Wyoming-Kentwood Chamber of Commerce located at 921 – 47th Street in Wyoming, said the Chamber supports pro-business opportunities in the community. J & H has been a good neighbor and a successful business. The Chamber recommends approval of the request.

Lillian VanderVeen, 930 – 28th St SW, and owner of Lenger Travel at 2290 – 28th St SW, is on the Chamber Board and served as a liaison to the former North Wyoming Business Association. The redevelopment of this site will be a wonderful impetus in helping promote growth and other redevelopment in this part of the city. She encouraged the Commissioners to approve this project as a future asset to Wyoming.

Chair Spencer closed the public hearing.

Joe Grochowalski of Omega Architects, representing the petitioner, apologized for bringing in the revised site plan so late. The owners had come up with new ideas that can benefit the functionality of the site. The project has been delayed due to the language change in the ordinance, so they requested the site plan be considered that evening in order for them to proceed with the project. The revisions were minor changes to the plan.

Petitioner Craig Hop noted this is the worst looking location they have right now, and it is in desperate need of improvement. If they can receive Site Plan Approval this evening, they could

improve the site before the snow flies. He mentioned that City Planner Cochran has been great to work with, and they intend to comply with the site plan conditions.

Motion by Hegyi, supported by Woodruff, to grant Special Use Approval for Pit Stop Mobil per Staff's Findings of Fact. Discussion followed.

Goodheart pointed out there are monitoring wells on the site and asked if much environmental cleanup is necessary. The petitioner indicated there is not a high level of contamination and a minimal amount of cleanup is necessary.

A vote on the motion carried unanimously.

Hegyi asked if a motion could be made to approve the site plan contingent upon staff's review of the revised plan. Cochran indicated the Commission could not delegate authority to approve to him, but staff is allowed to approve minor revisions to an approved site plan. Cochran did not think staff would find any significant issues regarding the revised site plan and could work through any minor issues.

Motion by Hegyi, supported by Postema, to grant Site Plan Approval for the revised site plan dated July 17, 2012 based on the Commission's previous review of the site plan, the revised plan containing only minor changes, the developer's need to proceed due to possible inclement weather conditions, and approval subject to conditions 2 – 5 noted. Discussion followed.

Bueche saw nothing on the site plan referencing the floodplain. Cochran pointed out everything on the north side of Chicago Drive is in the floodplain. The requirement is for them to build one foot above the floodplain. The petitioner said the floodplain is at 607 feet and they will be building at 608.5 feet. Bueche asked if a DEQ permit is required. Cochran indicated the Building Department will make this determination.

Hegyi asked how much larger this building will be compared to the present one. The petitioner replied the existing building is 940 s.f. The new building will be about 4,000 s.f. Hegyi asked if there was presently any landscaping on the east side. Cochran replied it is a barren area.

Micele questioned whether there would be any outdoor seating for the Subway restaurant. The petitioner responded they may put out two-seat tables if there is enough room. Cochran said outdoor seating is allowed anywhere in the city as long as it does not significantly block sidewalks or parking.

Goodheart asked if the gravel drive on the west side would remain as is. The petitioner responded affirmatively since this is the easement for access to the Weller Truck property. Goodheart thought it unusual for a property to have four curb cuts. Cochran said the Engineering Department has determined the site functions well in its present state. Goodheart asked about the sanitary sewer. Grochowalski replied there is a drain field, which will only be temporarily disturbed during construction.

Chair Spencer favored the project, but did not like the fact that the revisions were brought in at the last minute. She would like the site plan deferred one month for further review.

Hegy asked if the type of shielding for the dumpster was acceptable. Grochowalski said there will be a chain linked fence with slats, so the dumpster will not be visible. Cochran indicated this is acceptable.

Weller was excited about the project and pointed out they have been great neighbors. He thought additional trees and/or shrubs should be added if possible.

A vote on the motion carried 7 – 2, with Bueche and Chair Spencer opposed.

AGENDA ITEM NO. 4

Request for Special Use Approval for Allied Building Products – open storage yard. The property is located at 3740 Buchanan Avenue, SW. (Section 24) (Allied Building Products) (Includes Site Plan Approval)

Cochran noted the petitioner proposes to relocate their business from 322 Terminal Street in Wyoming to the properties at 3718 and 3740 Buchanan Avenue. Their business is a wholesale distributor of building materials which includes roofing, insulation, siding, windows and doors. They will occupy approximately ½ of the building at 3718 Buchanan Avenue for their office, showroom and indoor storage. This is a permitted use in this I-2 zoning district. However, they also propose to use the adjoining property at 3740 Buchanan Avenue for an open storage yard of building supplies. The open storage yard requires Special Use Approval from the Planning Commission.

The following standards for Special Use Approval shall be considered by the Planning Commission, as described within Section 90-761 (3) of the Zoning Ordinance:

- a. The possible substantial and adverse effect on neighboring property.

The property had been used for several decades as a trucking facility. This included the outdoor storage of numerous tractor trailers for extended periods. In addition, the property is across from the former General Motors Stamping Plant, which had an extensive outdoor storage yard near this subject property. Outdoor storage has been a significant use in this area of Buchanan Avenue for several decades. As such, the overall storage yard use is not considered to have an adverse effect on neighboring properties.

However, staff does have two concerns with the extent of storage. The building to the south is located just a few feet from the lot line. It is important to not have building materials stored adjacent to that building due to fire protection concerns. The proposed materials storage area is proposed to be restricted to that area east

of the building. This proposal is acceptable and is recommended as a condition of approval.

Also, to the east of this property is a 100 foot wide consumers power transmission corridor with a bike trail. Beyond that is a single family neighborhood. It is important to prevent the open storage yard from being too unsightly due to excessive stacking heights of materials. It is recommended that material storage not exceed a stacking height of 10 feet. Fence height is limited to six feet by ordinance.

- b. The consistency with the spirit, purpose and intent of this chapter.

The Special Use provisions of the ordinance allow the Planning Commission discretion in whether to establish land uses within a particular area of a zoning district. As stated, outdoor storage use has been ongoing in this area of Buchanan Avenue for a long time. The proposed use is consistent with the intent of the chapter.

- c. The possible adverse effect upon traffic as related to the streets, churches, schools and any buildings within the immediate area.

The property has access to Buchanan Avenue, a four-lane thoroughfare. The prior use of the property as a trucking facility had a much greater traffic impact, as did the former GM stamping Plant. No adverse traffic impacts are anticipated from this building material storage use.

- d. The tendency of the proposed use to create any type of blight within the immediate area.

The business will reuse a currently vacated property. No blighting influence will occur to neighboring properties.

- e. The economic feasibility for the area.

The proposed use appears financially viable.

- f. Any other factor as may relate to the public health, safety and welfare for persons and property.

Staff had no additional comments.

- g. That all other provisions of this chapter are met.

Staff had no other concerns.

Staff had the following added site plan comment:

1. The site is fully developed. The petitioners propose to enclose the business with a fence. A fire lane is shown on the site plan to both accommodate delivery vehicles and provide fire protection coverage. This fire lane shall be maintained.

The Development Review Team recommended the Planning Commission grant Special Use Approval for Allied Building Products per Staff's Findings of Fact. The approval is conditioned upon restricting outdoor material storage to the east side of the building with a stacking height of no greater than 10 feet. Staff also recommended granting Site Plan Approval subject to maintaining the proposed fire lane.

Chair Spencer opened the public hearing. There were no comments and the public hearing was closed.

Petitioner Jody Smith, regional manager for this location, said they are looking forward to relocating their business to a better site.

Motion by Hegyi, supported by Woodruff, to grant Special Use Approval for Allied Building Products per Staff's Findings of Fact, restricting outdoor material storage to the east side of the building with a stacking height of no greater than 10 feet. Discussion followed.

Woodruff asked the type of materials to be stored outside. The petitioner replied shingles, insulation and rolled roofing.

A vote on the motion carried unanimously.

Motion by Woodruff, supported by Hegyi, to grant Site Plan Approval subject to maintaining the proposed fire lane. Discussion followed.

Bueche asked if the fencing was based on a boundary survey. The petitioner responded that the added fencing is on the interior of the property. The exterior boundary line fencing is already in place. Hegyi asked if there were special screening requirements for the fencing on the east side. Cochran replied, if the neighboring property was zoned residential, heavier screening would be required.

A vote on the motion carried 8 – 1, with Bueche opposed.

AGENDA ITEM NO. 5

Turn On 28th Street Form Based Code

Cochran noted the city continues to move forward with the development of the form based code for 28th Street. The City Council has authorized a contract with Nederveld Associates for professional planning services to develop the form based code.

AGENDA ITEM NO. 6

Division Avenue Walkability Audit – August 13th.

Cochran explained a grant has been received from the Michigan Department of Transportation to bring in Dan Burden, a national expert on walkability. On August 13th he will conduct a walking tour of Division Avenue with a group of 25 people, starting out at Tommy Brann's restaurant and working north towards Godwin High School auditorium. The group of 25 people will include representatives from the cities of Wyoming and Kentwood, the Kelloggsville and Godwin School Districts, the Division Avenue Business Association, Disability Advocates and neighbors. He asked for two volunteers from the Planning Commission to attend the walking tour. After the walking tour, there will be food and presentations made at Godwin High School auditorium by The Rapid on the Bus Rapid Transit system and Dan Burden who will make recommendations regarding walkability and how it could apply to Division Avenue. The neighbors and school districts will be invited to the event. It should be a great kickoff for the BRT. There will eventually be new zoning codes developed along Division Avenue.

Bueche, Goodheart and Woodruff expressed interest in attending the walking tour. They were asked to contact Cochran in this regard.

ELECTION OF OFFICERS

Chair Spencer turned the meeting over to Rynbrandt for the election of Chair.

Rynbrandt opened the nominations for the position of Chair. Hegyi nominated Spencer. Spencer accepted the nomination. There were no other nominations and the nominations were closed. The nomination stood.

Motion by Bueche, supported by Hegyi, to elect Spencer for the position of Chair. Motion carried unanimously.

Rynbrandt turned the meeting over to Chair Spencer.

Chair Spencer opened the nominations for the position of Vice-Chair. Hegyi nominated Postema. Postema accepted the nomination. There were no other nominations and the nominations were closed. The nomination stood and Postema was elected for the position of Vice-Chair.

Chair Spencer opened the nominations for the position of Secretary. Hegyi nominated Woodruff. Woodruff accepted the nomination. There were no other nominations and the nominations were closed. The nomination stood and Woodruff was elected for the position of Secretary.

PUBLIC COMMENT

There was no public comment.

ADJOURNMENT

The meeting was adjourned at 8:55 P.M.

Anthony Woodruff, Secretary
Wyoming Planning Commission

Kimberly S. Lucar, Administrative Secretary
Wyoming Planning Commission