

FARMINGTON PLANNING COMMISSION PROCEEDINGS
Monday, October 12, 2009

Chairperson Gronbach called the meeting to order at 7:02 p.m. in the Farmington City Council Chambers, 23600 Liberty Street, Farmington, Michigan.

ROLL CALL

Present: Bowman, Buck, Christiansen, Gronbach, Ingalls, Kuiken, Scott, Sutton.

Absent: Crutcher.

A quorum of the Commission was present.

OTHER OFFICIALS PRESENT: Building Inspector Koncsol, City Manager Pastue, Deputy Clerk Pohto, City Attorney Tom Schultz (arrived 8:57 p.m.).

OTHERS PRESENT: Sherrin Hood, LSL Planning, Inc.

APPROVAL OF AGENDA

MOTION by Kuiken, seconded by Sutton, to approve the agenda as submitted. Motion carried, all ayes.

APPROVAL OF ITEMS ON CONSENT AGENDA

MOTION by Kuiken, seconded by Bowman, to approve the items on the consent agenda as follows:

- Regular meeting minutes of September 14, 2009

Motion carried, all ayes.

REZONING REQUEST, 33106 EIGHT MILE ROAD FROM INDUSTRIAL TO C-3

Review of Request – LSL Planning

Sherrin Hood, LSL Senior Planner, advised the property is planned for Industrial use in the Master plan and is surrounded by an array of uses. She explained the future land use plan allows for some heavy commercial uses and an expanded diversity in the industrial usage. She commented the Planning Commission has some flexibility when deciding upon land use for this site. She stated in the context of the general area the proposed rezoning to C-3 is not unreasonable. It is consistent with the development patterns on 8 Mile Road and Farmington Road.

Hood stated with the downturn of the Industrial Market in Michigan it makes sense to make good use of this site. She stated there is merit to applying commercial or industrial zonings to this property.

Hood stated under the current industrial zoning district the proponent could apply for a PUD (Planned Unit Development) but be limited by the zoning ordinance's usage restrictions. She advised currently the proposed zoning amendments are looking to increase the flexibility of the PUD standards allowing for additional uses that are outside of the list within the underlined zoning. Hood then explained if the proponent didn't rezone the property and applied for a PUD after the proposed changes have been made to the zoning ordinance, his property could include some commercial uses as part of a PUD application. She advised using frontage on 8 Mile Road as general commercial and allowing the eastern & northern parts to become the transition into that industrial and residential area will provide the most ideal circumstance. Hood felt the PUD was the best way to provide for the uses on the property.

Kuiken questioned the time table needed to designate the property as a PUD and for the applicant to feel the benefit.

Hood replied the process would be similar to a special land use application following a public hearing and approval of the Planning Commission. She explained the process was not restrictive or lengthy.

City Manager Pastue commented the mechanism is not in place to provide for a PUD inside industrial zoning. He stated text amendments, a couple of meetings, a public hearing and the City Council's approval may provide for this mechanism to be in place by 2010 at the earliest. He continued another public hearing may then be necessary before the PUD would go before Council for approval.

Pastue concurred with Hood stating industrial is planned for this property but not necessarily the only choice for the proponent.

Dave Lear, of Midwestern Consulting, LLC, representing William Ditzhazy, a prospective buyer of the property, discussed Mr. Ditzhazy's hope for a PUD and his struggle to find lenders for industrial use. He explained the drawings show the property as the proponent would like to develop it.

Public Hearing

Chairperson Gronbach requested a motion to open the public hearing.

MOTION by Buck, seconded by Bowman, to open the public hearing for discussion of the rezoning request of 33106 Eight Mile Road from Industrial to C3 - General Commercial. Motion carried, all ayes.

Hearing no public comment, Gronbach requested a motion to close the hearing.

MOTION by Buck, seconded by Sutton, to close the public hearing. Motion carried, all ayes.

Consideration to Recommend Approval or Denial of Proposed Rezoning

Sutton commented that the parcel may have been difficult to sell due to its size and the old building located there, noting purchasers may not be put off by the Industrial zoning alone. She asked if anyone had thought of destroying the building and breaking the parcel into smaller industrial units.

Dave Lear replied he was not aware of any offers to sell under those conditions. He felt the building was used as a selling tool to reduce the cost of relocating.

Sutton explained her concern with language describing the Master Plan as flexible. She cautioned the Master Plan is not a guide to be followed whenever. She continued a PUD would give the Commission control over the north side of the property along side Chesley Road. Sutton commented the character of this industrial area has changed based on what is happening on the south side of the street and asked if fast tracking the PUD would be possible.

City Manager Pastue replied the Commission would be looking at another meeting for review, a public hearing and at that point the Commission would submit a recommendation to City Council. He continued Council would need a couple of meetings to review the Ordinance. Pastue commented an estimated three months timeline might be possible.

Dave Lear stated the proponent had nine months remaining to finalize his purchase of this property.

Commissioner Sutton and the proponent concurred they were very comfortable with the option of a PUD.

Commissioner Christiansen agreed the PUD would meet everyone's needs by allowing the proponent usage options and the Commission more control over layout & design.

The proponent described his experience with the property across the street. He explained he sold two parcels then generating property lines which disappear due to the cross easement parking agreed upon in the covenant. He continued everyone pays for their own utilities and he maintains control over the whole site, noting he received an award from the Eight Mile Association for his building across from the 33106 Eight Mile Road site.

Commissioner Christiansen commented through flexible site design inter-relationships will be possible.

Commissioner Kuiken questioned within a PUD can the site return to Industrial zoning 10 years later after the concept of land layout was planned for different usage.

Hood concurred with Commissioner Christiansen stating the PUD allows for the site to return to Industrial zoning and flexibility to incorporate Industrial usage. She continued the Commission would have another chance to review the plan.

In response to a question by Chairperson Gronbach, Mr. Lear stated no rezoning occurred across from this property, there was a special land use granted. He thought it was C-2 zoning with complete cross access.

In response to a question by Commissioner Buck, Hood stated her concern regarding traffic on Chesley is due to the purpose of the Chelsey Drive access and Industrial traffic versus commercial traffic. She commented Chelsey provides truck access to the northern sites and will prove to have increased congestion when adding regular vehicular traffic. Hood added we are creating an environment for Industrial business we don't want to mess with, commenting Chesley acts as a buffer between the residential uses to the north and the Industrial uses to the south.

Mr. Ditzhazy discussed lighting and noise issues relevant to his present location as an example noting its solid fencing & 50 foot distance have prevented complaints. He commented on the projected positive commercial business market and the negative Industrial business market noting its come-back is at least 10-15 years away.

In response to Commissioner Buck's question, Building Inspector Koncsol stated the activity level to the East of this parcel is good and there are no vacant businesses. He continued commenting he notice a few trucks idling on Chesley waiting to get access to the businesses early in the morning.

Kuiken noted this parcel is located far West of the industrial area and Chesley has access East off of Eight Mile Rd., is there any concern about the trucks coming from those businesses located there and is it possible, if traffic were a concern, to re-direct those trucks East to the other route off of Eight Mile?

Sherrin Hood, LSL, stated the concern wasn't traffic flow but instead health issues regarding the trucks idling for a long time and therefore creating noticeable diesel fumes.

Planning commission members discussed the positive effects of a PUD if applied.

In response to Commissioner Scott, Lear answered Oakland County had no turn restrictions regarding the four curb cuts applied to the property across the street. He noted off of Farmington Road along the Walgreens side, Wayne County had a no left turn restriction for South bound traffic. He added Oakland County may ask for a traffic study to review turn movements and thru traffic from both the Chesley and Eight Mile Road sides.

Hood requested the three proposed curb cuts be aligned or off-set as much as possible due to the far east driveway's close proximity to the opposing driveway.

Mr. Lear answered they were considering reusing the existing curb cuts.

In response to Mr. Lear's question, Hood stated if the proponent were turned down for rezoning tonight he could apply for a special land use or a PUD and have no waiting period. She explained the petitioner would need a more defined plan and additional discussion.

Commissioner Christiansen asked for clarification regarding the petitioner's change in his request noting the petitioner's original request to be rezoned from Industrial to C-3.

City Manager Pastue replied there is no requirement to take action tonight.

Hood stated the PUD approval would not be a rezoning of the site. She then stated the process needed to acquire the proposed amended PUD:

- Planning Commission amends the PUD
- Pre-application conference with the planning commission
- Planning Commission sets date for public hearing
- Hold Public Hearing on the PUD concept plan and PUD agreement
- City Council reviews and approves the concept plan and PUD agreement
- Planning Commission approves the final site plan for the each building

Pastue agreed with Hood that a mid to late January date was possible to complete the PUD process then enabling the petitioner to initiate and complete the process by late March.

Commission Christiansen noted under the PUD the Industrial zoning remains in tact and is expandable if the market and conditions warrant it.

Hood concurred the amendment to the PUD Ordinance will be helpful to other properties inside the City of Farmington.

The Commission and City staff discussed the proposed changes to the PUD Ordinance commenting the PUD can be used as a comprehensive and effective tool.

Chairperson Gronbach advised the Planning Commission should not take action tonight regarding the request to rezone from Industrial to C-3 allowing the proponent to coordinate with City administration to prepare a PUD, if they choose to, in accordance with the proposed amendments to the PUD Ordinance.

Mr. Lear questioned procedure involved in tabling the request for rezoning.

Mr. Ditzhazy asked for reassurance before he could be comfortable waiting for the amendments to the PUD Ordinance in order to move forward and apply for the amended PUD.

He shared his experience with the City of Livonia stating when trying to purchase property there the City and his attorney coordinated the closing and the zoning was completed prior to him purchasing.

City Manager Pastue stated Mr. Ditzhazy would receive feedback prior to his 9 month option expiring. Ditzhazy then agreed to contact the City Manager with his decision as soon as he receives feedback.

Chairperson Gronbach called for a motion to table the proposed rezoning.

MOTION by Christiansen, seconded by Sutton, to table the proposed rezoning for 33106 Eight Mile Road, from Industrial to C-3 General Commercial to allow the petitioner and Planning Commission to work together on a PUD approach to addressing the petitioner/applicant's interest for this property.

Commissioner Buck commented the PUD approach is a good long term solution that maintains the integrity of the Master Plan but his concern is the property has been inactive a long time and he would like to see activity in order to bring about tax revenues which are sorely needed at this time. In addition, he supports this motion but hopes the long term solution moves as fast as it can.

Motion carried all ayes.

REVIEW OF PROPOSED TEXT AMENDMENTS

Hood reviewed the proposed amendments to the City of Farmington Zoning Ordinance explaining the primary changes relate to the Master Plan goal to be "redevelopment ready" to promote mixed use throughout the City, and remove barriers to creative building design and use of innovative and green design.

Gronbach asked Hood for a summary regarding the changes that need to be addressed. Hood stated the memo supplied in his packet summarized changes.

Hood explained editorial changes such as the revision of listed uses were addressed in order to ensure consistent terminology with the general provisions, special land use requirements and zoning definitions sections.

She addressed the commercial vehicle standards reminding the Commission of a past Zoning Board of Appeals decision regarding residential parking of a work vehicle over 7 feet high. She continued commercial vehicles with outside brackets and ladder hooks may be parked in residential districts provided no ladders, tools, pipes, or other equipment are attached to the vehicle.

Hood stated Article 13, Site Plan Review, now contains a section that allows submittal of less detailed "sketch plans" for those applications where fully detailed and engineered plans are not needed to perform a proper site plan review.

City Manager Pastue concurred with Hood noting the City is sensitive and would not like to over burden someone unless it was necessary in order to make a decision and is open to suggestions or comments from the Commission.

Commissioner Scott described his idea of a “sketch plan” and explained an architectural site plan verses an engineered site plan. He advised there may be set back and boundary issues sighting Silver Dairy as an example of a sketch plan.

In response to Commissioner Kuiken’s question Hood stated the Ordinance generally includes standards such as a boundary survey to be required in a sketch plan.

Chairperson Gronbach requested the Ordinance replace the term “sketch plan” with “architectural site plan” and add that a final site plan/survey may be requested as deemed necessary. Hood explained if the Commission wants something to be required it can be added to the Ordinance.

Discussion followed regarding the need for a boundary survey.

City Manager Pastue commented a manner of professionalism is required when reviewing engineering or survey work. He advised Hood should change the wording to read architectural site plan.

Responding to a question by Sutton, Pastue noted the architectural site plan include information regarding the building and parking lot locations but felt hiring an engineer to determine boundaries and grades was unnecessary.

Responding to a question by Sutton, Scott stated a person could save more than half by not having engineering done.

Christiansen noted simple situations can be approved administratively such as Mr. Sarkis’ request. Hood responded Mr. Sarkis’ situation could not be approved that way because he did not meet the strict standards necessary. She sited Joanne McShane’s building as an example of future administrative approval.

Gronbach commented the Planning Commission would want to review façade changes.

Christiansen noted if bulk and density aren’t changed or increased, and the request is only a cosmetic change a site plan could be appropriately applied. City Manager Pastue noted the Planning Commission may want to review cosmetic changes in order to keep continuity in the central business district.

Hood explained as an incentive to an applicant with no deviations meeting all the strict design standards mandated by Ordinance the City will expedite the process and apply administrative approval. She continued emphasizing other applicants will go before the Planning Commission for approval.

Hood reminded the Commission the attempt behind administrative review is to be more “redevelopment ready” eliminating red tape where you can and streamline the process when appropriate.

Sutton questioned who would approve a color review. She noted administrative approval would remove the diverse viewpoints of the Planning Commission.

Hood commented LSL’s job is to hold an applicant to the strict standards of the Zoning Ordinance.

Sutton disagreed stating LSL has repeatedly commented on an idea they had and not necessarily Ordinance mandates.

Pastue sited an example of a request from a gas station that never came to fruition due to a mish-mash of color applied to their canopy & signs.

Hood agreed nine heads are better than one and LSL’s thought was to encourage redevelopment downtown. She stated she can remove the “administrative approval of façade changes” from the proposed Ordinance.

Gronbach asked if LSL plans to change the term “sketch plan” in the proposed Ordinance. Hood responded yes.

Hood reviewed Article 14 parking standards stating measurements are by gross feet rather than usable square feet, which can be difficult to measure. She added standards have been adjusted to generally require less parking.

Scott stated he was uncomfortable with density change as it applies to gross square footage.

Christiansen commented “useable area” is now “gross leaseable area” stating an applicant wouldn’t need to figure out what the gross useable area he had when applying it to a contract. Hood concurred stating the applicant would see it.

Sutton stated she would rather see more landscaping and flexibility with parking. She continued noting Harvest Fresh was an example of a green approach.

Scott stated past practices using “gross area” with provisions allowed for modifications that were justified and would leave the decision to the Planning Commission. He continued when looking at a plan with parking & usage issues Midwestern Consultants help understand how those buildings will be used and defines the parking requirements.

City Manager Pastue explained developers would not short change their clients. He continued it would be costly to construct more parking noting land and asphalt are no longer cheap. Pastue stated in trying to economize they would only meet anticipated high demand during peak hours. He commented there is flexibility and other standards can be considered when modifying the gross square foot standard.

Hood stated LSL could change “gross” to “leaseable” square footage and allow movement by using the waiver process to modify parking.

Ingalls questioned studies done by LSL comparing the parking requirements of a building using “gross,” “useable” or “leaseable” areas on different buildings.

Hood responded LSL hasn’t completed studies but rely on and review the traffic studies found in the Institute of Transportation Engineers guidelines and manuals.

Hood responded to a comment made by Ingalls stating more times than not the applicant will want more parking than you want. She noted some communities limit the amount of parking to not more than 105% just as we do in our Ordinance.

Pastue stated City Attorney Schultz will speak to the Planning Commission later regarding Article 21, Adult Regulated uses.

Hood concurred to address this issue with due diligence when Attorney Schultz is in attendance.

Christiansen explained Attorney Schultz would discuss the concentrated approach rather than the disbursal approach. He continued the disbursal approach allows separation from residential areas, churches, and other communities, where the concentrated (combat zone) use can’t be exclusionary in rezoning so where does the City allow adult regulated uses.

Pastue agreed Schultz would address these issues and share articles with the Commission regarding the effects of adult oriented businesses in order for the Commission to make an informed decision when taking action. He stated when taking action on your findings regarding regulation of adult businesses the City is regulating the secondary effects associated with it and not the freedom of speech end of it.

Hood explained the residential changes made to R3 Multiple-family Residential and R4 Multiple-family Residential (1 bedroom) districts. She continued Section 35-83, Lot and Yard Requirements, has been revised for multiple-family uses and now uses a “dwelling units per acre” measure rather than the number of bedrooms. She felt this would allow appropriate diversity in the Multiple-family units.

Hood explained to promote mixed use and smaller-scale neighborhood uses LSL looked at the list of uses in the C2 district and included residential and mixed-use as new permitted uses and outdoor display, sales and storage as a special land use, which used to be a permitted use. She commented LSL is trying to take out some of the less appropriate uses that might conflict with a residential environment and direct those to C3 where auto oriented traffic are expected.

Hood stated the C2 districts will no longer allow drive-through facilities and banks will be the only acceptance. She continued all drive-through facilities will be excluded from the downtown area.

Pastue questioned does the City want drive-through restaurants when pursuing pedestrian walk-ability.

Hood stated this change is consistent with the Master plan and will prevent vehicular to pedestrian conflict.

Kuiken asked about the existing bank. Pastue answered it would be non-conforming and grandfathered. Hood added if they were to add on significantly to the building or added additional lanes the City would not allow it. Hood commented as a non-conforming use they may add an extra layer of review to the non-conforming part of the site but if they stay as is they are allowed to remain that way.

Gronbach questioned the CVS request for a drive-through.

Hood stated when addressing their request the Commission would need to look at the frequency of use noting if they didn't have a high frequency use it may fit in to the downtown environment when properly managed.

Sutton commented standards are needed.

Discussion continued regarding the downtown area and drive-through traffic interfering with pedestrian walk-ability.

Buck stated the City needs to design the downtown choosing to create walk-ability or allowing for vehicles but the City can't have it both ways.

Hood responding to a question made by Sutton, stated the City can have drive-through banks, dry cleaners and pharmacies and not allow a fast food drive-through noting it is possible to classify them separately. She commented this discussion is thought provoking and challenging adding someday it may be appropriate to restrict those uses.

City Manager Pastue asked the Commission how they would like to proceed regarding drive-through facilities.

Sutton would like to drive around the City to review current drive-through facilities.

Pastue asked Chairman Gronbach if the City Attorney could review the Adult Regulated uses at this time. Gronbach agreed.

Sutton asked for clarification regarding Pg. 12-5, No. 2, f. adult motion picture theater/and adult motion theater. Hood responded she would get clarification and bring it back to the Planning Commission.

City Attorney Schultz reviewed the Adult Regulated uses stating sections are taken from a widely used set of definitions accepted and understood by federal courts.

Schultz stated the proposal from LSL is to make the Ordinance more restrictive. He explained the Zoning Ordinance is about the affects of that land use as it applies to the neighborhood and the surrounding areas. He stated the court applies an intermediate level of scrutiny not relying on your word that you are not trying to regulate conduct but instead the secondary affects of these kinds of uses.

Schultz stated the Planning Commission will need to start a record creating process in order insure the City's and Commission's credibility if deposed.

Schultz shared a study taken in Farmington Hills showing there are secondary affects on the surrounding area when a cabaret or adult book store are opened in your area. He noted these studies recommend certain districts should be used in order to alleviate potential problems.

Schultz stated there are a couple of ways to regulate adult uses:

1. Boston's model – Create a district such as the “red light district” where all of these uses can go, keeping these uses away from other uses.
2. Detroit's model - Disbursal method allowing disbursement through out the City.

Schultz stated the Detroit model is recommended by LSL. He stated he will give the Commission a DVD/or CD with studies from sociologists and criminologists, cases, and reports from other communities etc. so that the Commission is well informed when taking action regarding adult uses and then credible if questioned as to their intent.

City Attorney Schultz stated Farmington Hills changed the original draft to broaden the types of facilities that fall under the adult regulated uses format such as pawn shops and massage parlors. He suggested if the Commission wanted to include these provisions they need to add a couple of layers to the process.

Pastue stated the City will make record of the information received by the City and Commission. He then requested information be submitted in an electronic form of plan review in order to clearly show the impact on adjoining properties.

Discussion continued regarding the use of information received by the Commission.

Gronbach asked Pastue if the review should be carried over to the next meeting.

Pastue advised the Commission could meet in approximately two weeks to review the PUD piece and additional proposed Ordinance amendments.

PUBLIC COMMENT

Annabelle Gable, 23089 Violet Street, expressed concern regarding the Silver Dairy drive-through being awkward.

COMMISSION COMMENTS AND ANNOUNCEMENTS

Gronbach thanked the City for the binder prepared for the Commission noting the convenience of having the Master plan and Zoning Ordinances organized by tab. Commission members concurred the binder was a great informational resource.

Scott questioned if Quality Market's sign met Ordinance mandates. Building Inspector Koncsol responded yes.

ADJOURNMENT

MOTION by Sutton, seconded by Scott, to adjourn the meeting. Motion carried, all ayes.

The meeting adjourned at 9:18 p.m.

Respectfully submitted,

Secretary