

# PLANNING COMMISSION

## Minutes

October 19, 2006

### I. ROLL CALL

Fred Walstrom	Present
Andrew Bowman	Present
Jack Deegan	Absent
Jeff Ford	Present
Mary Ellen Hughes	Present
Laura Kors	Present
Sheryl McCleery	Present
Peter Sears	Present
Sara Smith	Present

Also present were City Planner Larry Nix, City Attorney Jim Ramer and City Manager Fred Geuder.

Chairman Fred Walstrom called the meeting to order at 6:00 p.m.

Walstrom noted that Commission member Mary Ellen Hughes had been named Citizen of the Year by the Harbor Springs Chamber of Commerce.

### II. MINUTES

Motion by Kors, seconded by Sears, to approve the minutes of the September 21, 2006, regular meeting, as presented. Motion carried.

### III. PUBLIC COMMENT AND CORRESPONDENCE

None. (See individual items.)

### IV. NEW AND OLD BUSINESS

#### A. Consideration of Grading Plan on Reppard Property—Robert Foote

The City Manager noted that John Kane was here representing the property owner, Robert Foote.

Kane reviewed the proposed plan, noting where Foote was proposing to have the driveway. By having the driveway across Parcel #4, the density is decreased by one unit.

On Parcel #2, Kane proposed that the First Floor elevation of the house be set at 710', meaning that the grade on that portion of the lot would be at 708'. The first floor elevation of the garage was proposed to be 708'.

Kane noted that an existing hedge is shown on the plan; the proposal is to extend that hedge as shown, and have an approximate 4' boulder retaining wall set back 4' from the property line, as shown. This wall would stop just past the Graham garage.

The cedar hedge planted would be 8-10' in height, and other perimeter landscaping would be as shown.

Kane noted that many of the properties to the east of this one have retaining walls similar to what is being proposed. All of them required some leveling.

Kane also noted that the owner had removed an old retaining wall on the front (approximately 1000 sf of face) and was proposing to have approximately 300 sf of retaining wall face on the side.

Kane acknowledged that the process was turned around, and he apologized for how this had occurred.

Planner Larry Nix noted that since 30 days ago, a lot of fill had been removed, and that Mr. Kane had done what he said he would do.

Nix noted that the elevation of the first floor of the adjacent Graham property is roughly equivalent to what Kane is proposing. That lot (the Graham lot) then slopes off from the back of the house.

Nix also noted that the original intent of the ordinance that had been passed was to prevent a property owner from artificially raising the height a house. The other grading issues were added to the ordinance.

In this case, Nix noted that the height of the house was not being raised from the original topography. On the part of the lot where the house will sit however, the lot is being leveled and it appears that approximately 4' of fill will be added, and then held in place by the retaining wall. Nix noted that a retaining wall in itself is not a bad idea.

Nix further noted that the north lot could use some more flattening; it looks about 4' higher than the original grade, and it should be made certain that run-off is handled.

Nix said that in his opinion, the overall plan for the lot where the house will be placed is not unreasonable. The amount of fill in place 30 days ago was outrageous, but the final plan should work. He noted that we have to separate emotion from what should be approved.

Neighbor Janice Elliot, who owns the house on Parcel 3 (the northmost lot), noted how the lot had originally tapered away. She was concerned primarily about water sitting on the NW corner of the lot, where run-off had accumulated.

Marlyn Graham (owner of the house to the east of the Foote lot) noted that we seem to be negotiating how much to take off, not what should have been in the first place. She was concerned about what precedent this may set in terms of filling in other lots. She thinks what is there is still too high.

Laura Kors noted that a portion of the lot is still 4' higher than it was originally; design should match the contours of the lot.

Peter Sears said that in his opinion it is not unreasonable now.

Jeff Ford noted the process that had been involved. If this had been on the original proposal, it might have been approved administratively by the City Manager. But what is there was not shown, and he suggested that we go back to square one and start over.

Kane explained what he had shown in his request to get started, but acknowledged that all of what occurred was not on the plan.

The City Manager stated that he knew the driveway was being re-located; he knew the old retaining wall on the front was coming down; but he did not know about other grading changes. He admitted that it would be hindsight to say what might have been approved had it been shown.

Ford also noted that it was good to know about the drainage problem now, so that it could be corrected. Ford also noted that the Commission needs to set a grade for a future house on Parcel 4, so that that number is known. It was also Ford's opinion that the way this process had occurred should not go unpunished.

Planner Larry Nix noted that the Planning Commission cannot levy a fine or impose a punishment. It is the Planning Commission's job to decide whether a plan is reasonable.

Andrew Bowman noted that nobody likes where we are now, but where do we go next? It probably looks good on paper, but at least in this case we are able to see it in "real time". We do have some compromise and give and take. Bowman liked the addition of the cedar hedge to hide things.

Mary Ellen Hughes noted that what was first seen was overwhelming. What we have now and on the plan is acceptable in her opinion.

Sheryl McCleery noted that she is in the same quandary. But she feels the project as presented now is very reasonable.

Sara Smith wondered if the house is as low as it can be.

Pringle Pfeifer, who owns property two houses to the east, is concerned about the step-down effect. It is a big impact.

Kors noted that a four-foot stepdown is better than eight feet.

Ford noted that everybody had good intentions, but the dynamic we have now is a whole new dynamic.

Bowman noted that the Graham house is right on the lot line.

The City Manager noted that in his opinion the grade for the later house on Parcel 4 should be set at 698', the average grade where the building envelope of that lot will be.

Motion by Bowman, seconded by Smith, to approve the grading plan for Parcels 2 and 4 of the Reppard property as presented by John Kane for Robert Foote, with the following conditions:

1. That a stormwater management plan for both parcels, with particular emphasis to Parcel 4, be developed by an engineer and approved by the City Manager.
2. That the finish grade for the building on Parcel 2 be no greater than 708'; that 708' be used for determining the height of the house; and that the property generally slope to the north.
3. That Parcel 4 is determined to have a finished grade of 698' and that 698' be used to determine the height of a house on that parcel.
4. That the east wall of the Foote residence not be further east than shown on the plan; and that the main south wall (not including a porch) not be further south than shown on the plan.
5. That the retaining wall be built in the location shown on the east portion of the property and not exceed 4' in height (+/- 6").
6. That perimeter landscaping as shown on the plan be installed as presented; and that landscaping on the east side of the property south of the existing cedar hedge, and within the required side yard setback (approx. 9') should not exceed 36" in height.

Motion carried 6-2, with Ford and Kors dissenting.

- B. Consideration of SLU-2006-03, Renewal of Coffee Roaster Permit for Woolybugger, 181 East Main St.

The City Manager explained that conditional approval for Woolybugger to use their coffee roaster had expired. He further noted that he does not receive calls with complaints about the operation. He suggested that the approved condition be extended for perhaps a longer time.

Motion by McCleery, seconded by Bowman, to grant Woolybugger an extension of the permit to use the coffee roaster for three years, expiring October 31, 2009. subject to a condition that the roaster capacity be limited to the current 10 lb. capacity. Motion carried.

- C. Consideration of a Lot Split Request for 372 Glenn Drive, Cynthia & Peter Pursley

Peter Pursley, owner of property at 372 Glenn Drive, explained his proposal to split off a 100 x 100 foot parcel of land on Glenn Drive as a separate building site, which would leave a 26' access to the remainder of his property. He noted that the existing parcel would become non-conforming, but still contained well in excess of 10,000 square feet.

Pursley also noted that there were a number of non-conforming, existing lots in the neighborhood, some as small as 49' wide.

He also noted that the driveway would be moved to the 26' wide portion of his lot, and after consulting an excavator, that it could be reasonably built without damaging the neighbor's property.

The City Manager noted comments received from:

- |    |                    |                                |          |
|----|--------------------|--------------------------------|----------|
| 1. | Mrs. Dale Doehrman | 441 Glenn Drive                | Opposed  |
| 2. | Bryant Keil        | 373 Glenn Drive                | Opposed  |
| 3. | Lotsie Holton      | 405 Glenn Drive                | Opposed  |
| 4. | Robert Hermann     | 333 Glenn Drive                | Opposed  |
| 5. | Jim Holton         | 405 Glenn Drive                | Opposed  |
| 6. | Lambert Johnson    | 420 Glenn Drive                | In Favor |
| 7. | Stephen Graham Jr. | On behalf of Robert<br>Burskey | Opposed  |

Steve Graham, Jr., on behalf of Robert Burskey (neighbor to the immediate west of Pursley), commented that moving the driveway to the west might damage his client's lot and destroy trees on his client's lot.

Graham noted that the standard for granting such a variance should be whether or not the property can be put to a reasonable use. Graham noted that the land already has been put to reasonable use.

Graham also noted a case where the Michigan Supreme Court said that a lot could not be split for only financial considerations or for one where the owner created his own problem.

Graham finally noted that this would set a precedent. How do you turn down the next one?

Peter Pursley said the driveway would be about 50' from the Burskey house and would not damage it.

Bo Morley, Glenn Woods Drive, spoke on behalf of Pursley's request. Morley noted that the Commission could just say "no", but might be missing an opportunity. Morley noted that the remaining parcel would still have over 40,000 square feet.

Morley noted a number of other examples in the community that might have similarities to this request.

Planner Larry Nix commented that the Planning Commission would be making a recommendation to the City Council as to whether or not to grant the Lot Split request.

Nix noted that the Zoning Code sets minimum standards for lots. Non-conforming lots should not be created by lot splits, but the Planning Commission can consider the request.

Nix noted that while historically there are other smaller lots, he does not recall an instance where the Planning Commission recommended one that was less than 50', let alone 26'. Nix also noted that in other projects noted, different zoning techniques, such as Cluster Approvals were used. He recommended that the proposal be denied.

Motion by McCleery, seconded by Sears, to recommend that Council deny the Pursley lot split request for 372 Glenn Drive. Motion carried, 6-2, Ford and Hughes dissenting.

D. Conceptual Review of a Lot Split for Rondel Property—Main and Zoll

The City Manager said that Mark Rondel had drawn a preliminary plan to re-configure his property at Main and Zoll, which would result in five properties. It would increase the number of parcels from four to five.

General comments and concerns that were raised included:

1. That with R-2 zoning, the number of housing units would increase from 8 to 10.
2. That all lots would still be non-conforming.
3. Potentially if lots were re-configured, and the density remained the same, a change could be considered.

Reasons to consider such a split would be the elimination of curb cut(s) on Main, the elimination of the old greenhouse on Zoll, and the certainty of future planning.

No action was taken.

E. Master Plan

The City Manager and City Planner distributed preliminary drafts of the Master Plan text for review. In addition, Planners were given the Goals and Objectives in a revised format.

The City Manager also discussed the Land Use Map (Master Plan Map). Planner Larry Nix and the City Manager are finalizing the format for the map. It is not anticipated that land use patterns will change to a large degree.

Finally, the City Manager briefly reviewed the Master Plan schedule.

Based on anticipated agenda items, the Planning Commission should be able to work on the Master Plan at the November 16<sup>th</sup> meeting. Laura Kors suggested that the schedule be fully reviewed at that time, and then sent to the Council meeting thereafter.

V. MEMBER COMMENTS

Jeff Ford asked about the “conflict of interest” standards and how they should apply.

City Attorney Jim Ramer stated that guidelines for “conflict of interest” are not cast in concrete as much as people may assume.

Ramer noted that if you have a direct financial conflict of interest, you should not vote. But there is also a common sense consideration given to public service, and that involves the appearance of impropriety. If there is any appearance of impropriety, it should be disclosed, and then the remainder of the Planning Commission should vote to determine whether or not that member disclosing should vote or not.

It was suggested that Ramer develop a guideline for the Planning Commission.

It was also noted that discussion on an issue may be helpful, even if a member may abstain. If a potential conflict is disclosed at the beginning of a discussion, further discussion by the conflicted member may still occur.

VI. ADJOURNMENT

There being no further business, the meeting was adjourned. The next regular meeting is scheduled for Thursday, November 16, 2006, at 6:00 p.m.

---

Frederick W. Geuder, City Manager