

## PLANNING COMMISSION

### Minutes

December 15, 2005

#### I. ROLL CALL

Fred Walstrom	Present
Andrew Bowman	Present
Jack Deegan	Present
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 James T. Ramer, and City Manager Fred Geuder.

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

Walstrom noted that Laura Kors has been appointed as the City Council representative to the Planning Commission, replacing Pringle Pfeifer.

#### II. MINUTES

Motion by Deegan, seconded by Hughes, to approve the minutes of the October 20, 2005, meeting, as presented. Motion carried.

#### III. PUBLIC COMMENT AND CORRESPONDENCE

See specific agenda items.

#### IV. NEW AND OLD BUSINESS

- A. Public Hearing on Proposed Re-Zoning of 669 State Street from R-1-C to TR and for a Proposed Special Land Use for Parking at that Location

The City Manager noted that this was a public hearing for both the re-zoning of 669 State and a proposed Special Land Use of that property by Harbor Car Care for a parking lot.

Lynn Stedman noted that he was appearing on behalf of the owners. He also introduced Harbor Car Care (HHC) owner Dan Warner and Dick Oelke of Benchmark Engineering. Stedman asked Warner to briefly describe the plan.

Warner said that HHC's was trying to eliminate on-street parking by their business. They felt that their plan would add 15 spaces to their business.

Stedman noted also that the plan was to park a tow truck parallel to the building to stop cars from parking on the sidewalk. They would also put up additional signs. Stedman also noted that HHC has eight (8) additional spaces available at the car wash property.

Stedman acknowledged that the business has grown. They are the only auto mechanics in the city, and the business adds value to the community. They are trying to do something to alleviate the parking concerns.

Warner also noted that the proposed plan would help with their snow removal.

Stedman said it was not really practical to move the business. This location is where people come with their vehicles.

Warner was asked whether the garage was used. He said nothing was in there now, but it would be nice for additional storage.

Warner was also asked about snow storage. Oelke noted that it is common for people to store snow over retention areas, like the one shown on the plan. Warner noted that sometimes you do have to move the snow off-site.

Warner noted that the idea behind the Quick Lube bay they had started was so that people would not have to leave their cars for extended periods of time.

Walstrom asked for public comment.

Bill Fuller of Fuller-Nichols Architects, and on behalf of the West Lake Condo Association, made a number of comments. Fuller noted that the applicant has already made alterations to the site and is using it.

Fuller further noted the following:

- Part of the plan shows an area of questionable title. Can this plan be approved?
- Would this plan represent spot zoning and would it be an expansion of the business?
- Site is overdeveloped now. It used to be a gas station with some service; not it is a service station with some gas.
- If this plan were approved, it should be with an irrevocable agreement.
- Parking across the street was originally for four spaces; it now shows eight.
- What is the alley shown? Nothing is described as an alley. Where is the centerline of the alley?
- The number of questionable dimensions on the plan makes for too many reasons not to approve the plan.
- The alley is shown with prescriptive rights. West Lake Condo maintains that the use of the alley is permissive.
- The proposed plan could double or triple the alley traffic.

- Part of the parcel shows unknown ownership. An affidavit of ownership could take a year.
- There appears to be a gap or an overlap shown.
- The parking lot appears to be non-conforming.

Bill Kolinske, who also owns a business in the West Lake Condo Association, said West Lake Condo has been a great place to do business. He is concerned about the access on the alley. He usually does not park on the alley, but says his employees and clients do not want to park there. He feels traffic is the major issue.

Bill Zoerhof, who also owns a business in the West Lake Condo Association, feels the planning issue is what's best for the community. He feels this is a band-aid approach. He loves the HHC business, but does this plan solve the problem, and is it good for more traffic in the alley. He thought the whole piece should be paved with access to State St., not the alley.

Buck Neesley, who lives on Harrison Street, said the business has expanded dramatically. He was specifically concerned about noise, traffic in the alley, hoods banging, engines revving, etc. He said there were safety issues.

Dick Oelke, Benchmark Engineering, reviewed the general problems with surveys in the part of town. He concluded that there might be a 2-3 foot gap, but no overlaps. He also noted that the alley was on the original condo documents, and was "subject to the rights of the public" and other governmental units.

There was further discussion on the status of the alley.

Kolinske said that the Condo Association was not trying to deny the public access to the alley, but that additional access for HHC would be detrimental to their businesses.

Neesley said children play in the alley to the south.

Motion by McCleery, seconded by Bowman, to close the public hearing. Motion carried.

The City Manager did note that correspondence was received from the following:

- Pam Helder, trustee for the Lucia Waller Trust, owner of 665 State Street
- Mike Barnes, a nearby property owner
- Bill Bosker, a nearby property owner

B. Consideration of Recommendation to the City Council on the Proposed Re-Zoning and Consideration of SLU-2005-03 for 669 State

The Commission discussed the proposal.

Bowman asked if there was an adverse possession issue.

City Attorney James T. Ramer noted that he had not seen the affidavit, which had been filed. Generally said claim would be based on use.

Deegan asked whether it could be approved.

Ramer noted the re-zoning could be approved regardless of ownership.

McCleery asked where the alley was and was it public.

Ramer noted that he had met with the City Manager and its longest-term DPW employees. He noted that Rick Ward who has been with the City since 1964 said the City has done maintenance such as plowing, grading (before it was paved), oiling (before it was paved), etc, and has continued to do so to this day. Ramer notes that it is a highway (alley) by user statute.

Planner Larry Nix noted that the Commission was considering two issues—the re-zoning from R-1-C to TR—Transitional Residential, which does permit the parking lot as a special land use, and also the approval of the parking lot as a Special Land Use.

Nix noted that the HHC property has been zoned B-2 for a long time, and the business in some form or another has been there for a long time. There is now a parking problem, because the business has had good success. The applicant is trying to help resolve the issue with probably the most convenient solution to the parking problem. But Nix also noted the problems with parking over the sidewalk.

On the plan, Nix questioned if added fences were to be built; the use of the garage and storage area; where the tow trucks would be parked. He noted all of the plan could help the problem, but that the use would need continuing monitoring.

Smith asked about screening. Nix noted that there is existing screening in place.

Kors noted that if this were not approved, things would stay the same, and parking would continue on State Street.

Nix was asked whether the parking would be paved. Nix noted that would be a requirement.

It was noted that the affidavit of ownership of the 8' parcel muddies the water.

Ramer noted that it appeared no one else would have a claim to the 8' of property and would likely go to the owner of 669 State (the applicant). He noted that perhaps the title insurance company could issue a commitment.

Ford asked whether the property could be zoned B-2, or would that extend the transition to the next property.

Nix said that the TR zone was intended for this type of use. What is unusual is that the applicant is not the owner of the property on which the principal business is located.

Ford was concerned in general about the expansion of the business.

In reply to a question, Stedman noted that the applicant would be will to sign an agreement reverting the land to its former use at such time as the applicant no longer owned the HHC business.

Walstrom summed up the issues:

- Parking for the business has gone beyond the parking lots.
- Does the proposal for the use on the adjacent parcel create an adverse impact from congestion, noise, traffic, etc.?

Bowman noted that he felt the TR zone was a good zone. This parcel has always been somewhat inferior because of its location adjacent to the auto service business location. Focusing on zoning first, he would go ahead and re-zone, and then focus on the plan and how it can be improved.

Hughes noted she had many thoughts:

- HHC has a parking problem.
- She (Hughes) has been obtaining service there since 1969.
- The business has been enhanced, but it seems like the staff needs to be policed.
- Should HHC go away? No, in her opinion.
- Should the alley be used? Yes, if done properly. She has used the alley.
- The neighbors were not there until 1983; she remembers the 50-year anniversary of the gas station a number of years back.

Sears noted with what is already occurring, is it a moot point?

Deegan does not think it is a bad idea.

Warner was asked if the plan was to keep the house there and he replied yes.

The City Manager noted that the Commission had options on each of the issues:

- The re-zoning question is on a recommendation to City Council. The Commission can recommend approval or denial of the re-zoning or could table the issue also.
- The Commission has the same three options with the Special Land Use request.
- And the Commission could do one thing with the re-zoning request and something else with the Special Land Use request.

Motion by Sears, seconded by Smith, to recommend City Council approval of the re-zoning of the property, including the eight feet of questionable title, from R-1-C to TR.

Motion carried, 9-0.

Further discussion occurred on the question of the Special Land Use.

Bowman asked whether the Commission should give guidance to the applicant.

It was suggested that the applicant heed the discussion that has occurred, including such issues as a title commitment, and how to limit the adverse impact of the business on adjacent properties, including noise, visual impacts, and traffic and safety issues.

Motion by Sears, seconded by McCleery, to table consideration of the SLU request. Motion carried, 9-0.

The Commission took a five-minute break.

C. Public Hearing for a Proposed Two-Story Accessory Building with Guest Quarters at 966 Arbor Street

The City Manager noted that a public hearing is require when an applicant has requested approval to construct either a two-story accessory building or one with guest quarters, and this is an application for both.

The City Manager further noted that the size of the proposed structure had created a need for a variance request, and noted that the Zoning Board of Appeals had approved the variance on December 14, 2005.

Dan Episcopo, of Episcopo Home Construction and on behalf of the owners, stated that the owners are looking for additional bedroom space for guests, and that the current condition and configuration of the principal building does not lend itself expansion. Episcopo noted that neighbors had not objected.

Motion by Sears, seconded by Bowman, to close the public hearing.

D. Consideration of SLU-2005-04 for 966 Arbor Street

The City Manager noted that the only condition he would suggest for approval of this application is that the owner be required to sign an affidavit acknowledging the rules for use of this type of structure. The City Attorney is drafting such an affidavit.

Kors asked whether such an affidavit would go with the property. Ramer noted that the affidavit will be recorded and will go with the property in the event of an ownership change.

Motion by Hughes, seconded by Deegan, to approve SLU-2005-04, at 966 Arbor Street, as presented, with the condition that the owner signs an affidavit of use as prepared by the City Attorney, and noting that the standards for a Special Land Use have been met.

Motion carried, 9-0.

The City Manager noted that the Commission might want to take a look at the 576 square feet rule, based on the variance that was considered as part of this project.

E. Consideration of Proposed Lot Split at 138 West Third Street

The City Manager noted that applicant Clayton Brown, the owner of the property, wants to separate the two uses on the property—the retail bakery and the residential unit—into separate property descriptions.

The City Manager noted the history of this property including access for the property to the City's parking lot to the north.

Brown noted in reply to a question that the passageway between the two uses would be eliminated.

The issue of whether a firewall would be needed was discussed. Ford noted that a firewall is more of a building code issue, and not the Planning Commissions.

The City Manager noted that the alternative to a lot split would be to condo the property, but this would likely be more expensive.

The City Manager also noted that the proposed porches as shown on the drawings are "proposed" and approval of a lot split would not constitute approval of the porches. The porches as proposed would likely need a variance or two whether or not the lot split occurred.

In reply to a question, the City Manager noted that setbacks created by the lot split would be non-conforming, but that the Council has the authority to grant such relief. The Planning Commission is asked to make a recommendation. And either way, the two uses would still continue.

Motion by Bowman, seconded by Smith, to recommend City Council approval of the lot split at 138 West Third Street, as requested.

Motion carried, 9-0.

F. Consideration of SPR-2005-07, CBD Project by Rob Mossburg at 246 East Main Street

The City Manager noted that this is proposed CBD project on the former Wendell Smith property. A duplex unit is being built on that portion of the parcel on Bay Street.

Bowman noted that he had a conflict of interest, because he is the realtor for Mossburg.

Sears noted that his son Rob is the architect for this project, but that he (Peter) has not financial interest in his son's business or this project. As in similar cases, it was the consensus of the Commission that no conflict exists.

Rob Mossburg, owner of the property, reviewed the plan, noting that they are proposing a building with two first floor commercial units and two second floor residential units. Eight (8) parking spaces are required: two each for the residential units would be provided on-site, and the four spaces required for the commercial units would be provided in the lot just east of the American Legion building.

Mossburg noted the architectural look divided the appearance off Main Street into what looks like two separate buildings.

Nix noted that this project is in the Central Business District, and the proposed use meets parking requirements. He questioned having a pole adjacent to the driveway, which holds up the building. Architect Rob Sears noted that the pole will be steel, encased in concrete, and will likely have a wood covering for appearance.

In reply to a question from the City Manager, R. Sears confirmed that the driveway is 10' wide, and there is a three-foot sidewalk adjacent to it along the building.

The City Manager further asked how the driveway would drain. R. Sears said it would drain to the south.

The City Manager also noted that easements for drainage, parking turn-around, and all utilities would need to be provided by the applicant. With no garbage dumpster site noted, he also assumed that garbage will be stored inside the building. Mossburg acknowledged that garbage would be stored inside.

Finally the City Manager asked whether the roof access would extend beyond the 30' height limitation. R. Sears noted that the railing starts at the 30' height and works down; the stairway is actually outside, but begins at the second level.

With no lighting shown on the drawing, R. Sears noted that any lighting would be of a historic type.

Motion by Hughes, seconded by Deegan, to approve SPR-2005-07, the Mossburg project at 246 East Main Street, as presented, and approving the off-site location of four of the required parking spaces at the lot just east of the American Legion building on East Third Street, and with the condition that easements for drainage, turn-around and all utilities, be given to the City.

Motion carried, 8-0, Bowman abstaining.

G. Consideration of Request for Planning Commission Initiation of a Re-Zoning at 420 Glenn Drive by Lambert Johnson

The City Manager referred the Commission to the request of Lambert Johnson to re-zone his property at 420 Glenn Drive from R-1-B to R-1-A, both single-family residential zones.

The primary difference between the two zonings concerns approval of guest quarters. In the R-1-A district, the use is by right. In R-1-B, the use requires special land use approval. The City Manager also noted that the setback for an accessory building in the R-1-A district is greater.

Property to the east of Johnson is zoned R-1-A (Glenn Woods) and property across the street is also zoned R-1-A.

If the Planning Commission wanted to initiate such a re-zoning, they could also include four lots to the west if it were their desire. The City Manager noted that the lot furthest west (Vogt) may have such an interest, but the owners of the three parcels in between might not.

It was the consensus of the Planning Commission that Johnson should make the request on his own behalf only.

H. Consideration of Use Interpretation for the Friendship Center

The City Manager noted that he had given the Friendship Center temporary permission to locate their operation to the Hillside Apartments during the construction phase of the high school building. After the construction phase, the Friendship Center requested that they be permitted to stay at the Hillside location permanently.

The City Manager asked Planner Larry Nix to review the Zoning Code and determine whether such a use was permitted.

Planner Larry Nix issued an interpretation wherein he stated that the Friendship Center use would qualify as an accessory use in the RM zoning district. The City Manager asked the Commission to approve the interpretation.

Motion by Sears, seconded by Bowman, to approve the City Planner's interpretation of the Friendship Center as an accessory use at the Hillside Senior Apartments. Motion carried.

I. Consideration of 2006 Meeting Schedule

The City Manager presented a proposed 2006 Meeting Schedule for consideration. Meetings would be at 6:00 p.m., on the third Thursday of each month.

V. MEMBER COMMENTS

None.

VI. ADJOURNMENT

There being no further business, the meeting was adjourned. The next meeting is tentatively scheduled for Thursday, January 19, 2006, at 6:00 p.m.

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Frederick W. Geuder, City Manager

Attachments