

Present: Chairperson Ostrowski; Vice Chair Westerlund; Members: Abboud, Borowski, Grinnan, Jensen, Peddie and Ruprich

Absent: Stempien

Also Present: Village Manager, Chris Wilson
Planning Consultant, Brian Borden

Chairperson Ostrowski called the meeting to order at 7:30 p.m. in the Village of Beverly Hills municipal building at 18500 W. Thirteen Mile Road.

APPROVE/AMEND AGENDA

Motion by Jensen, second by Borowski, to approve the agenda as published.

Motion passed.

PUBLIC COMMENTS

None

REVIEW AND CONSIDER APPROVAL OF MINUTES OF A PLANNING COMMISSION MEETING HELD JUNE 25, 2014

Motion by Borowski, second by Abboud, that the minutes of a regular Planning Commission meeting held on June 25, 2014 be approved as submitted.

Motion passed.

DISCUSSION ON CONDITIONAL REZONING OF 19600 W. 13 MILE ROAD

At its May 28, 2014 meeting, the Planning Commission discussed a request for rezoning of property at 19600 W. 13 Mile Road from R-1A to R-3 Single-Family Residential. The applicant had indicated that the intent of the rezoning was to seek future approval of a development under the Village's single-family residential cluster option (Section 22.26). Based on feedback received at that meeting, a letter dated June 17, 2014 was submitted by Timothy Patrick Development formally requesting a conditional rezoning of the property from R-1A to R-3. A site plan has not been submitted. As allowed under a conditional rezoning, the applicant prepared a list of six conditions to the rezoning request that they would be willing to accept.

1. Density limited to not more than 22 units
2. Natural buffer of 15 ft. along the northern property line
3. Lot width not less than 45 ft.
4. Lot area not less than 4,500 sq. ft.
5. The site will be developed under the Village's Cluster Option
6. Minimum first floor area not less than 1,100 sq. ft.

Attorney for the applicant and Beverly Hills resident Ron Reynolds presented an overview of the conditional rezoning request before the Planning Commission. The approximately 4 acre site is located on 13 Mile Road near Evergreen Road and is currently zoned R-1A. There are two single-family residences on the property. The owner of the property is Robert Dundon. This site,

which has been for sale for some time, presents an opportunity for infill redevelopment. To the north is the Westwood subdivision; the western boundary of the property is adjacent to a multi-family condominium development; there is a church to the east and another church at the corner of 13 Mile and Evergreen. The applicant believes that this property is unique because of these location factors.

There were questions raised at the May Planning Commission meeting relative to applicability of R-3 zoning to this property, density, and the viability and marketability of R-1 residential on this site. Since the last Planning Commission meeting, the developers met with members of the Westwood Homeowners Association to discuss their concerns and potential mitigation opportunities. On behalf of the developers, Reynolds expressed appreciation to those who attended that meeting.

Reynolds proposed that, if the Village desires to have this parcel developed for single family use, the best alternative would be to approve an R-3 zoning with conditions. The neighboring uses on 13 Mile Road are more intense than single family zoned use. It is the applicant's position that the R-1 zoning is not economically feasible for the parcel. The developers have engaged civil engineer Fazal Kahn to analyze development costs for the site. Reynolds outlined the analysis of various layouts, which resulted in excessive infrastructure and development costs. From an economic standpoint, the petitioners do not view R-1 zoning as being sustainable. The property owner has marketed the property for more than two years; all of the offers were for more intense development than R-1 single family.

Reynolds related that zoning classifications in Michigan were not meant to be static and unchangeable. The Michigan Planning Enabling Act requires that communities review their master plan for potential updates once every five years. The petitioners believe that the unique location factors and the lack of economic feasibility for R-1 development of the site puts the property at risk for a more intensive use than single family. Michigan courts have held that zoning must be reasonable.

The developers contend that R-3 zoning with conditions would maintain viable single family use of the parcel and would be consistent with sound planning principles. The proposed use would increase the tax base of the Village. Any development will have some impact on neighbors. The developers are committed to mitigate the impacts to the extent that they can. Reynolds concluded that the applicants believe that the best alternative for this site that would maintain the single family use of the parcel would be to approve an R-3 zoning use with conditions.

Pete Kelly, Westwood resident, disagreed that the church is an intense use. The church is used only periodically. Further, Kelly suggested that a Planned Unit Development (PUD) is something that could be considered in this circumstance. It would allow for input from both sides with a resulting agreement that is enforceable. Kelly did not think that 20 condominium units would enhance their neighborhood or the Village.

Mike Zainea of 19559 Waltham stated that his house abuts the property on 13 Mile Road. He related that the concerns of the residents include density of the plan and how it would affect the character of the neighborhood. Setbacks are a concern. Area residents want to know the impact

before a decision is made. There needs to be research and due diligence on the proposal and a determination on whether it comports with the Village Master Plan.

Elliot Beattie at 30180 Hobnail Court stated that he was in favor of the rezoning proposal. He thought bringing in a high quality product would increase the tax base and benefit the community. It would also give Beverly Hills residents an option to downsize and continue to reside in the community.

Colleen Vincent, Huntley Subdivision resident, stated that the proposed development would present an opportunity to bring more tax revenue into the Village. As a homeowner, she would rather see single family homes developed on the site than another apartment building.

Ostrowski clarified that the Village does not have an ordinance that would allow developers to develop the property as a Planned Unit Development. A conditional land use agreement is now allowed under the Michigan Planning Enabling Act.

Wilson added that a conditional zoning as established under the Michigan Planning Act does not provide for the trading off between the community and the developer that might occur with a PUD. With a conditional zoning, the petitioner comes to the community with a set of conditions; the Planning Commission and Council can have some discussion with the developer without the kind of negotiation that would occur under a PUD.

Commission members discussed the conditional rezoning request as proposed. Jensen referred to condition #5, which states that the site will be developed under the Village cluster option. He noted that the cluster option sets up conditions and criteria that waive some of the conditions presented by the applicant. He questioned how the developer can accomplish what he is trying to do by utilizing the cluster option. Jensen mentioned that the upcoming Village Master Plan update may provide opportunities in the future for similar remaining parcels in the Village.

There were members who thought that the petitioner should demonstrate the benefits of R-3 zoning to the Village and the surrounding homeowners. A rationale or compelling argument should be made to change the zoning. Commission members discussed the purpose and use of the cluster option. The suggestion was made that a plan or rendering that would show the applicant's intended use of the cluster option would be helpful. Buffering and density concerns were expressed. It was suggested that a larger buffer strip be provided for the adjacent homes along the north property line.

Wilson stated that a conditional zoning is designed to offer conditions that are more restrictive than what exists in the zoning code. A cluster option does the opposite of that by providing more flexibility, particularly for setbacks. There are some benefits conceptually under the cluster option in terms of setting aside of lands that would be beneficial to everyone. It is unusual to have the cluster option as one of the conditions because that is a loosening of the zoning code. Wilson did not see how development under the cluster option could be included as a condition without submitting a schematic that shows how the cluster development would look. A concept of the cluster development is needed.

O’Leary affirmed that developing the property as proposed would result in a less intense use than multiple family. The R-3 zoning and cluster option would provide the benefit of a detached unit that would serve the same market as an attached unit and have a higher value. O’Leary said that what they are attempting to do is not the true intent of the cluster option. It was a way to work with the ordinance to create a detached product.

O’Leary understood that submitting a site plan showing the cluster option would occur when they go through the cluster option process to get the project approved. There is some broadness with the rezoning proposal, but they are not asking for approval of the final project. Commission members have indicated that the applicant should make a commitment and submit a plan and elevations that show what the project would look like and demonstrate why it cannot work under R-1 zoning. The Village needs to see what the developer is going to build after the rezoning is approved.

Chairperson Ostrowski thought that the applicant had enough feedback to proceed with their submittal. Wilson will relay the discussion to planning consultant Brian Borden.

DISCUSS MASTER PLAN

Kathleen Duffy from LSL Planning distributed a sheet outlining the scope and schedule for the Master Plan update over the next year. LSL has started looking at the census numbers and is eager to have a subcommittee formed to review the updated data, demographics, and existing land use. The new Village Center will be incorporated into the master plan. The outline includes meetings with the subcommittee and an open house with the public invited in October.

Ostrowski commented that the goal of the subcommittee will be to discuss items and relay information to the full commission at monthly meetings. Committee meetings will be held either at the Village municipal building or the LSL Planning office. A committee was established with members consisting of Borowski, Westerlund and Stempien with Abboud and Peddie as alternate members. Duffy will follow up with an email to schedule the first subcommittee meeting. She addressed questions from the Commission relative to implementation of the plan.

DISCUSS POSSIBLE SIGN ORDINANCE AMENDMENT

This is a carry over item from the last Planning Commission meeting. Ostrowski asked if there was interest from Commission members to revisit the sign ordinance with respect to language that continually surfaces and causes issues.

Jensen expressed the view that the Planning Commission has created an unintended consequence in wanting to extinguish a certain behavior without addressing it. He proposed that Robert Stempien be given the challenge to come up with options as to how problem issues could be solved. The Board would then work together to address ordinance language. Village legal counsel should be questioned as to how the Village can be on safe footing based on the intention to remove nonconforming signs.

Westerlund thought that the sign ordinance language needed to be addressed to provide clarity in order to make decisions in the future. He proposed addressing this matter through a frank discussion by the Planning Commission. The members need to come together and decide on their

vision for signage and then develop the instruments to accomplish that goal. Borowski added that it was a matter of defining a standard and determining how long nonconforming signage would be acceptable.

Wilson thought that either the Village needed to change the ordinance or take the sign ordinance out of the zoning code. There are some triggers as to how signs get replaced, but they are tied to the redevelopment of the property, not the signage. Wilson said that it should be clearly spelled out in the sign ordinance if the Planning Commission is going to apply a strict interpretation of the ordinance that prohibits the replacement of a panel on a nonconforming multi-tenant sign. The Village would have to be prepared to live with a sign that has 60% of the sign panels blank.

Peddie said that she struggled with wanting to promote businesses in the Village without being restrictive in terms of allowing signage on multi-tenant signs.

Ruprich remarked that part of the problem was that property owners and landlords have no knowledge of Village zoning codes. Communicating recent ordinance changes and putting the landlords on notice would promote the objective of getting changes made.

DISCUSSION OF COTTAGE HOUSING ORDINANCE

This agenda item was carried over from last month's meeting. Ostrowski stated that he would like to see a cottage housing ordinance dovetail with the Master Plan update as a development option. Jensen agreed to spearhead a subcommittee to discuss a draft cottage housing ordinance for Beverly Hills. Members Grinnan and Ruprich volunteered to be a part of the subcommittee.

ELECTION OF CHAIR, VICE CHAIR AND SECRETARY

Ostrowski opened the floor to nominations for the office of chairperson of the Planning Commission. Borowski nominated George Ostrowski for the position of Planning Commission chairperson. There were no further nominations. Ostrowski accepted the nomination and was elected as chair by acclamation.

Jensen nominated Patrick Westerlund as vice-chair of the Planning Commission. There were no further nominations. Westerlund accepted the nomination and was elected vice-chair by acclamation.

Westerlund nominated Lee Peddie as secretary of the Planning Commission. There were no further nominations. Peddie accepted the nomination and was elected secretary by acclamation.

COMMISSIONERS' COMMENTS

Ostrowski introduced Toni Grinnan as the new member of the Planning Commission. Grinnan said that she was glad to be on the Planning Commission noting that she sat on the Planning Board previously. Grinnan will get up to speed on what this group has been working on during the time when she did not live in the Village.

Jensen welcomed Toni Grinnan to the Planning Commission. He mentioned that she has been a member of the Zoning Board of Appeals, the Planning Board, and the Village Council.

ADMINISTRATION COMMENTS

Developer John Mentag representing property owners Julie and Ted Willett of 31805 Evergreen went before the Village Council on July 15, 2014 with their request for a private road. The Planning Commission reviewed this application for a private road at its June 25, 2014 meeting and passed a motion to deny the application based on conflicting issues related to a private road and an existing easement road and due to safety concerns expressed by the Village Engineer. The applicants were again denied by the Village Council. Wilson and Tom Ryan met with the attorney for the developer since that time. Wilson believes that the applicant will be resubmitting a site plan with the driveway abandoned and one entrance point on Evergreen Road.

At next month's meeting, there will be an application from Michigan Beer Growler for signage on the multi-tenant sign in the Brady's strip plaza. The sign application has been submitted and will be reviewed by LSL Planning. Wilson mentioned that there is an issue with a sign that was placed on the multi-tenant sign without application or approval from the Village. Village staff has notified the owner of this and has not received a response.

Wilson's position was that this code violation has to be remedied in some fashion. Unless there is objection from the Planning Commission, Wilson will ask the building department to send a communication to the land owner stating that there has been a notice of violation of the sign ordinance. They will be informed that the Michigan Beer Growler business has an application coming before the Planning Commission for space on the multi-tenant sign, which will be reviewed but not considered for approval until the previous violation is remedied. It can be remedied by removal or through application and approval of a sign permit. Wilson did not believe that the Planning Commission should allow another panel to be changed out while there is an ongoing violation pending on that sign.

Wilson mentioned that Lee Peddie has applied for a seat on the Village Council. There were four seats open and only three people applied as of the filing deadline.

PUBLIC COMMENTS

Former ZBA member Todd Schafer commented on the potential change to the sign ordinance. As a matter of course, the Zoning Board of Appeals is not involved in ordinance construction; one of the functions of the ZBA is ordinance interpretation. They have seen a handful of sign cases already. Schafer suggested that it may make sense to involve the Zoning Board chairperson in terms of taking a look at a draft amendment to the sign ordinance to determine if there are any interpretation questions.

Schafer commented on the cottage housing ordinance and the proposal to rezone property on W. Thirteen Mile Road from R-1 to R-3 zoning.

Pete Kelly had a question regarding the Southfield Road redevelopment. He was informed that the Village Center plan included an overlay zoning district.

Bob Walsh of Smallwood Court questioned the status of the future redevelopment of Southfield Road in Beverly Hills. Wilson responded that he anticipated that recommended alternatives to the road redevelopment will be forthcoming from the Road Commission this Fall. Wilson did not

believe that the plans would include a roundabout option for the Thirteen Mile and Southfield intersection. Wilson added that the funding for this road work is far out into the future. Ostrowski remarked that the Southfield Road redevelopment plan is something that should be included in the Master Plan.

Motion by Jensen, second by Westerlund, to adjourn the meeting at 9:37 p.m.

Motion passed.

George Ostrowski
Planning Commission Chairman

Ellen E. Marshall
Village Clerk

Susan Bernard
Recording Secretary