

Present: Council: President Peddie; Members: George, Hrydziuszko, Mueller, and Nunez
Planning Commission: Chairperson Drummond; Vice-Chairperson Westerlund; Members: Borowski, Copeland, Grinnan, Ostrowski, Ruprich, Stempien, and Wilensky

Absent: Council: President Pro-Tem Abboud; Member: Mooney

Also Present: Planning & Zoning Administrator, LaPere
Village Clerk / Assistant Manager, Rutkowski
Planning Consultant, Borden

Drummond called the joint Planning Commission and Council meeting to order at 7:30 p.m. in the Village of Beverly Hills municipal building at 18500 W. Thirteen Mile Road.

AMENDMENTS TO AGENDA/APPROVE AGENDA

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

Motion passed.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

None.

ANNUAL REPORT 2019

Drummond provided an overview of the Annual Report for 2019. As part of the updates to the Master Plan adopted in 2016, the Village incorporated an “Action Plan” to help guide staff, Council, and Planning Commission in their annual goal-setting activity. There were eighteen Zoning Ordinance items identified with short to mid-term prioritization. Since adoption, the Village has accomplished five of the tasks outlined, including three in 2019, and is actively working towards finalizing another two of the tasks.

Site Plan Reviews/Recommendations

The Planning Commission reviewed and made recommendations on the following projects in 2019:

Special Land Use Recommendations

- Detroit Country Day School: Playground and Sports Court
- Detroit Country Day School: Guard House

Site Plan Recommendations

- Detroit Country Day School: Playground and Sports Court
- Detroit Country Day School: Guard House
- Detroit Country Day School: Tennis Courts
- Vacant Lot at 31655 Southfield Rd, Beverly Square Condominiums

Ordinance Updates

Pursuant to the authority by the Michigan Zoning Enabling Act and the Village Ordinance, the Planning Commission reviewed and made recommendations on several updates to the Village's Zoning Ordinance in 2019. The updates were, in part, to accomplish the Action Plan tasks outlined in the Master Plan, and to address known language that conflicted with other sections of the Zoning Ordinance or updates to statutory language.

- Addressed the conflicting language in Sections 22.08.130 and 22.08.090 which regulated minimum separation between buildings.
- Updates to various sections to ensure Zoning Ordinance language matched statutory language for adult foster care and childcare facilities.
- Addition of review standards and submittal guidelines for rezoning requests as enumerated in Section 22.40 Amendments (Action Plan Z7 and Z9).
- Modernize language and formatting updates to the use tables across all Zone Districts (Action Plan Z10).
- Updated language regarding construction site fencing.

Future Goals and 2020 Action Plan

The Planning Commission is recommending the continued work of implementing the various Action Plan items to realize the goals outlined in the Village Master Plan. Specifically, the Commission recommends a complete Zoning Ordinance overhaul, which is Action Plan task Z1. While this project would require a significant investment of time and resources there are benefits to reviewing the chapter as a whole document, including reducing potential for conflicting language, reduced cost in one adoption process versus piecemeal updates, and ability to focus resources on other tasks upon completion.

Recognizing the scope of this project will require due diligence to determine the appropriate time to invest in this work, in the interim Administration and the Planning Commission continue to target sections of the Zoning Ordinance that require priority attention to accomplish the other Action Items of the Master Plan and to better serve the residents of Beverly Hills.

ZONING ORDINANCE UPDATES

A. IN-PROGRESS

1. PUD (new language/replace Cluster, Section 22.26)

a. Inclusion of Senior Housing, Tiny Houses, ADU

The Planning Commission and Administration are continuing work that began in 2019 to draft proposed Planned Unit Development (PUD) language to replace the existing cluster development option (Action Plan Z2), and to update the off-street parking regulations for consistency with the changes to the use tables and modern off-street parking recommendations (Action Plan Z11). A draft of the language was provided for discussion.

The subcommittee for PUD noted three areas of alternative housing options that the Village may want to consider as an allowable alternative or addition within the PUD process: accessory Dwelling Units (ADU), senior housing, and tiny homes.

Discussion took place regarding various types of housing, required changes to ordinances for any allowance, and enforcement impacts. Based on the input and feedback from Council there

was consensus to move forward with PUD language as written and explore housing options separately. Peddie suggested they also consider regulations related to rental units.

2. Parking regulations (Section 22.28.020)

The subcommittee for parking has begun work on updating the parking regulations by use following the adoption of the new use tables. In addition to updating the language for consistency, evaluation of parking standards against current recommendations based on parking generation studies will be completed.

The intention is to conduct Public Hearings on both of these items at an upcoming Planning Commission meeting.

B. COMPLIANCE WITH STATE/FEDERAL REGULATIONS

1. Sign ordinance (Section 22.32)

Administration has identified two sections of the Village Ordinance which are inconsistent with state or federal regulations. Section 22.32 Signs is not in compliance with the Supreme Court ruling of Reed v. Town of Gilbert which clarified that the content of signs is broadly protected as free speech and any regulations regarding signs must satisfy the strict scrutiny standard and be content-neutral. Therefore, the Village may regulate signs, such as the size and location of signage, but those regulations cannot be based upon the content of the sign. For example, having differing regulations for the size of signs which advertise on-site construction activity versus signs which contain a general expression or political messaging is not considered content-neutral as the basis for the differing regulations is the content of the sign itself. Administration is proposing to work with the Planning Consultant and Village Attorney to make recommendations for updates to this language.

Outside of language updates for legal compliance, administration has found the requirement for Planning Commission approval of permits for all signage to be logistically problematic. For example, temporary signage and changes to an existing sign face are reviewed on very specific, limited standards, and there are often time constraints with meeting once monthly that further exacerbate the issue. Administration is recommending modification to allow administrative approval of some signage.

There was discussion about the aesthetic impacts of signage in the community and creating a sense of place through consistent signage. Wilensky noted that the Village efforts to improve signage at major intersections will be hampered by the fact that 75% of the property in those areas is under other municipal jurisdictions. Stempien inquired whether language to require compliance with certain upgrades was an options to help reduce/eliminate nonconformity.

2. Zoning Board of Appeals (Section 22.38)

Section 22.38 Zoning Board of Appeals is the other section which Administration has identified that requires updates to be consistent with state regulations. The Michigan Zoning Enabling Act, along with precedent set through cases, has established clear criteria regarding the authority and standards for the Zoning Board of Appeals. The current ordinance language is not clear or concise and not wholly consistent with those established standards.

Administration is recommending reviewing this section with the assistance of the Planning Consultant and Village Attorney and making recommendations to update accordingly.

C. ACCESSORY BUILDINGS, STRUCTURES AND USES (Section 22.08.100)

Administration has identified concerns with ability to ensure compliance of accessory buildings, e.g. sheds, that are under 200 sq. ft. and not subject to building permits but required to meet zoning requirements, and the regulation of mechanical units in side yards. As noted in their Annual Report, the Village Zoning Board of Appeals also continues to hear cases seeking relief from this section, especially for mechanical units in side yards.

This topic was discussed in 2018 at which time the proposed amendments were not approved as there were several areas of concern raised by Council. Administration proposes revisiting the section to draft language that addresses the concerns raised.

D. FRONT OPEN SPACE (Section 22.24.010, a)

The Zoning Board of Appeals has also seen requests for relief from the requirements of front open space averaging on a consistent basis. This section of the ordinance imposes a greater front open space minimum than the stated setback. The intent behind this language is to ensure the character of the existing developed neighborhood is not disrupted by a house being placed in a drastically different location from the neighboring homes. It is worth noting, this section also allows relief from the stated minimum where the existing character of that area is for the homes to be located closer to the street than the stated minimum.

The practical application of this ordinance has resulted in requests for a variance where the front open space is well in excess of the stated minimums. Additionally, there is concern about the legality of regulations wherein a person's home could be rendered nonconforming due to the actions of their neighbor.

Administration has reviewed the front open space requests for the past five years and is suggesting studying the existing development and potential for modifications to improve the language while maintaining the intent of the ordinance. Upon discussion, Council and Commissioners believe that the process for requesting a variance is acceptable to allow deviations to be reviewed on case-by-case basis.

E. FENCE ORDINANCE (Section 22.08.150)

The Planning Commission has expressed concern regarding the provision that permits a person to install a 6 ft, solid style fence if there is similar existing fencing on an abutting property or within 200 feet on their side of the street. The intent behind this language is to allow that style of fencing where it is part of the character of the existing neighborhood. Administration has done a cursory review of the permits that were issued since adoption in mid-2018. In that time, there were 161 permits issued for fences and privacy screens. Of those, 42 were for fences and excluded were permits for privacy screens as those are not subject to the additional approval criteria in question. Administration provided an overview of the incidence of criteria utilized, and found no instance of a request for a fence approved due to a public safety concern being identified as criteria for additional fencing on neighboring property. Administration

recommends ongoing monitoring of the criteria utilized for permits issued to ensure the intent of the language is realized in the real-world application.

Discussion took place about the process by which this language was drafted and fencing in the Village. Westerlund expressed concern about changes to the character of a neighborhood. Council determined a discussion about changes to the fence ordinance will be placed on the next agenda.

F. OUTSIDE STORAGE/WOOD STORAGE IN RESIDENTIAL ZONE DISTRICTS

The Village has experienced difficulty in enforcement of outside storage of goods and materials, including storage of wood. In addition to the potential to become unsightly for the neighboring residents, some items can be linked to rodent harborage which is an ongoing issue in southeast Michigan. The International Property Maintenance Code does not explicitly address outside storage beyond vehicles and a generic prohibition on rodent harborage. The Village Ordinance is also somewhat ambiguous in that we prohibit storage on open land of such materials but do not address open storage on developed properties in a clear, concise manner. Ensuring the ordinance language is clear and concise benefits the Village in its enforcement efforts and the property owners to have easily understood expectations of property maintenance standards.

Administration is proposing reviewing the relevant Sections of Chapter 22 Zoning Ordinance and Chapter 29 International Property Maintenance Code to make recommendations on draft language to help address blight and storage concerns.

DISCUSSION ON VILLAGE CENTER OVERLAY DISTRICT

Peddie noted that the intention of the Overlay District is to create a downtown, walkable, commercial area. She would like to see proposals for mixed-use development and not purely residential projects. George opined that land acquisition was one tool the Village could employ. Hrydziusko agreed that the vision is to create a commercial district. Wilensky agreed that land acquisition may be necessary and sees vacant properties as a problem to redevelopment efforts.

There was discussion about the financial and time commitment required to develop the district in ways that would be keeping with the Village Center Plan. Westerlund noted the changing retail models make financial projects uncertain. There was discussion whether changes to the Plan or Overlay District might need to be considered if it is not financially feasible. Borowski felt the plan was aspirational and that changes would occur in time. Ostrowski stated mandatory compliance was another option to speed up redevelopment to these standards.

LaPere reported on a program called Redevelopment Ready Communities, a voluntary, no-cost certification program designed to promote effective redevelopment strategies through a set of best practices. The program also includes marketing resources through the Michigan Economic Development Corporation. The county has a program called One Stop Ready; a community focused economic development program built upon self-evaluation, information sharing, and outstanding customer service. She also reported that there was once a Downtown Development Association in the Village.

Mueller would like to revisit the evaluation made by CORE Partners in 2018 and consider if any sections of that redevelopment could work.

PUBLIC COMMENTS

None.

ADMINISTRATION COMMENTS

LaPere reported BP has started building their screening wall.

COMMISSIONERS COMMENTS

None.

COUNCIL COMMENTS

Peddie thanked the Commission for their work on some difficult issues this past year, and thanked members of Council and Commission for working together.

Motion by Ruprich, second by Westerlund, to adjourn the meeting at 9:45 p.m.

Motion passed.

Andrew Drummond
Planning Commission Chairperson

Lee Peddie
Council President

Kristin Rutkowski
Village Clerk

Elizabeth Lyons
Recording Secretary