

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

Absent: Freedman

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

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

Westerlund asked that the agenda be amended to add an item, “Review Light Fixtures for Village Center”. Ostrowski requested an agenda item 8A, “Reconsider Sign Request from HearUSA”.

Motion by Westerlund, second by Borowski, to approve the agenda as amended.

Motion passed.

PUBLIC COMMENTS

None

REVIEW AND CONSIDER APPROVAL OF MINUTES OF A PLANNING COMMISSION MEETING HELD APRIL 23, 2014

Motion by Borowski, second by Stempien, that the minutes of a regular Planning Commission meeting held April 23, 2014 be approved as submitted.

Motion passed

MICHIGAN BEER GROWLER REQUEST FOR PLAN REVIEW AND APPROVAL

Planning consultant Brian Borden reviewed that, on February 4, 2014, the Village Council approved a request from Michigan Beer Growler Company owner for a Quota Tavern Liquor License for a business to be located at 31215 Southfield Road. This new business will be in the former dry cleaner tenant space. The site is within the B Business zoning district and is developed with a multi-tenant commercial building. The project architect and business owners are present this evening to address the proposal and answer questions.

Borden remarked that this is a unique business. The proposed operation is essentially a craft beer store that also provides sampling. The materials submitted by the applicant describe the proposed use as comparable to a carry out restaurant, although they will sell/serve only beverages and not food. The B District lists retail businesses, including restaurants, as permitted principal uses; this description seems to be the best fit for the proposed business. The focus of this review has been on parking for the shopping center and whether allowing this use would have a negative effect on parking throughout the site.

Procedurally, Section 22.08.290(b) requires site plan review for a change in use. The nature of this request is to re-occupy an existing tenant space in a multi-tenant building, which does not

entail exterior site changes typical of a full site plan review. The building and site will remain essentially unchanged, while the new business will redesign the internal space to meet their needs (pending site plan approval and provided all necessary building permits are obtained). As such, the primary purpose of “site plan” review for the proposed use is related to the parking requirements of Section 22.28 Off-Street Parking and Loading Requirements.

The materials provided by the applicant include a count of existing spaces, parking calculations and a parking easement across the subject site, Market Fresh and the 31333 Southfield Road office building north of the site. The submittal also includes information regarding a parking easement across the subject site and adjacent sites to the north and south. Borden noted that the metal guardrail between the site and the office building has been removed.

Borden stated that there is sufficient parking to allow this business if it is viewed as a carry-out restaurant. He suggested that this business could also be viewed as a retail establishment, in which case the parking requirements are less. Borden concluded that his review of the materials and calculations found that the sites in combination are in compliance with the Village ordinance.

Borden mentioned that, according to the ordinance, the ability to share parking requires the execution of a shared parking agreement. He suggested that the easement information provided to the Village be reviewed by the Village Attorney relative to the legal nature of the document and its applicability to this situation. Borden is not certain that the easement supersedes the need for a parking agreement. Tom Ryan is present at tonight’s meeting.

The applicant Janae Condit of 32035 Crossbow was present with her husband Brian Condit. Janae Condit mentioned that they are patterning the business after a similar store in the Atlantic area with comparable demographics. The customers generally come in to fill a growler. It takes about 8 minutes to come in, select the growler, have it sealed and be cashed out. The store will be open from 11 – 8 during the week, 11 – 9 on Friday and Saturday, 12 – 6 on Sunday. Condit provided information on the actual growler jug, beer selection, sampling process, and number of seats (15). Food will not be served.

Commission members discussed the site plan for the Michigan Beer Growler business. Questions regarding the proposal were addressed by the applicants. Brian Condit stated that they are requesting that the landlord provide dedicated spaces for their business in front of the store. He added that Mike Palmer, owner of Premier Pet Supply, whose business would be adjacent to the MBG company, was present at the February 4 Council meeting to express his support of their business. Further, Brady’s Tavern owner Bob Berg has submitted a letter of approval for the business. In response to an inquiry, it was indicated that the only ingress and egress will be from the front door.

Further inquiries on parking requirements and calculations were addressed by Borden and project manager and architect Jeffery Budday. Ostrowski mentioned that the use of shared parking fits with the Village Center Plan.

Motion by Westerlund, second by Stempien, that the Planning Commission recommend approval of the site plan for Michigan Beer Growler at 31215 Southfield Road as submitted based on compliance with parking ordinance requirements for the requested use.

Roll Call Vote:
Motion passed (8 – 0).

REQUEST FROM MICHIGAN BEER GROWLER TO ERECT A PERMANENT SIGN AT 31215 SOUTHFIELD ROAD

Planning consultant Brian Borden reviewed the application for new wall sign for Michigan Beer Growler, proposed business located at 31215 Southfield Road. The sign demonstrates compliance with the ordinance standards for wall signs in terms of size and height.

Paul Deters from Metro Detroit Signs confirmed that the two colors used on the sign will be blue and black; the sign will be externally illuminated. Borden informed the petitioner that the lighting must be shielded and light fixtures cannot protrude more than 3 ft. from the building face.

There is an ordinance requirement stating that signs cannot be within 20 ft. of each other. Paul Deters stated that the center of their storefront is only 18 ft. from the side of either of the adjacent signs. Based on the limitation of the ordinance, the business would not be allowed to have any sign. He noted that the Papa John's sign is only 8 ft. from the Jimmy John's sign. Borden mentioned that this 20 ft. distance is a requirement of the new sign ordinance. He concurred that there is no way the petitioner can comply with the ordinance standard.

Commission members recognized the hardship and suggested that the applicant could seek a variance from the Zoning Board of Appeals. The intent is not to keep this business from having a sign on its store front. Ostrowski asked if the Commission has flexibility with respect to interpreting this ordinance standard. Attorney Ryan responded that he did not think the Commission had the discretion to waive this restriction. He suggested that the recommendation should be to request a variance from the Zoning Board and that the fee be waived since this condition is not their creation.

Borden remarked that a sign spacing standard in an ordinance is generally intended for ground signs. The ordinance language reads, "No sign shall be nearer than 20' to any other sign or structure other than a structure to which it is attached". Borden said that a motion to approve the sign could be conditioned upon Zoning Board approval of reduction in sign spacing.

Motion by Borowski, second by Jensen, that the Planning Commission approves the wall sign as submitted for Michigan Beer Growler at 31215 Southfield Road contingent upon a variance being granted by the Zoning Board of Appeals from the sign spacing standard of the Zoning Ordinance. Waiver of the ZBA application fee is recommended. The sign will be externally illuminated and meets all other illumination standards; the color scheme is blue and black.

Roll Call Vote:
Motion passed (8 – 0).

Manager Wilson indicated that there is not enough notification time for this case to be on the June 9, 2014 Zoning Board agenda. Wilson added that he did not think that the intent of the ordinance language was for sign spacing to apply to wall signs; it was his understanding that the 20' requirement applied to ground signs. Wilson mentioned that he could administratively approve a temporary sign for the business.

PUBLIC HEARING TO RECEIVE COMMENTS REGARDING REQUEST FROM TIMOTHY PATRICK DEVELOPMENT TO REZONE PROPERTY LOCATED AT 19600 W. 13 MILE ROAD FROM R-1 TO R-3

LSL Planning Inc. has reviewed the proposal to rezone the 3.97-acre subject site from R-1 Single-Family Residential to R-3 Single-Family Residential. The property has a street address of 19600 W. 13 Mile Road and is located on the north side of 13 Mile, east of Evergreen Road. The R-1 district requires a minimum lot area of 16,000 sq. ft.; R-3 zoning requires a minimum lot size of 4,000 sq. ft.

Brian Borden related that, in February of 2014, the petitioner obtained authorization from the property owner to pursue necessary approvals for “the development of multiple Single Family Building Sites.” The petitioner presented a conceptual plan to the Planning Commission at its April 23, 2014 meeting. At this time, the petitioner seeks to rezone the subject site from R-1 to R-3 Single-Family Residential. The stated intent of the rezoning is to seek future approval of a development under the Village’s single-family residential cluster option (Section 22.26).

While the petitioner has stated his intent and subsequently prepared and presented a conceptual plan, Borden noted that neither their intent nor the concept plan are binding upon the petitioner as part of the proposed rezoning. If the rezoning is granted, the petitioner may pursue any allowable development under the Zoning Ordinance for the R-3 District.

Section 22.40 addresses amendments to the Zoning Ordinance, including amendments to the Village Zoning Map (rezoning). Procedurally, the Planning Commission may make a recommendation to Village Council on the project following the public hearing. Ultimately, Village Council has the authority to approve or deny the rezoning request. While the Ordinance outlines the amendment process, it does not provide review criteria. In situations such as this, generally accepted standards are utilized so the Village has the ability to fully evaluate the request prior to making a decision.

In terms of applying generally accepted standards, the review letter addresses whether the proposed zoning amendment would be consistent with the goals, policies, and the future land use map of the Master Plan. We also look at compatibility with surrounding land uses and zoning designations; characteristics of the property; whether the infrastructure is acceptable for development.

Borden stated that the proposed development is not consistent with the Village’s Master Plan. The Master Plan identifies the site as low density residential (16,000 to 15,000 square foot lot areas). He added that it is a large lot that is zoned for single-family residential with the only access point along 13 Mile Road. It is adjacent to RM zoning (multiple family) on one side. The west is developed as an apartment building. The property to the east was developed as a church. The property to the north is zoned and developed as R-1 and R1-A single family residential.

Borden mentioned that the Village has authorized the Planning Commission and LSL Planning to work on updating the Master Plan this year. He believes that there are some conditions present that would warrant further evaluation of this site with consideration given to a more appropriate use category. However, this petition is before the Planning Commission now.

Patrick O'Leary was present on behalf of Timothy Patrick Development at 30600 Northwestern Hwy, Farmington Hills. The proposal is to rezone the four-acre parcel at 19600 W. 13 Mile Road from R-1 to R-3 single family residential. The intent is to construct detached condominiums developed under the Village's Cluster Zoning Option. The development is targeted towards the empty nester market.

O'Leary displayed a concept drawing of the development. He noted that there were comments and suggestions offered by Planning Commission members at the informal presentation on April 23, 2014. Site plan approval will be pursued at another time.

The current proposal is for a road surrounded by 22 units with pocket parks, a water feature, and a walking trail. The units will be designed to have full maintenance for the exterior roof, siding, outsides of buildings and landscaping, which will be commonly managed within the association. The homes are planned with first floor master bedrooms, two bedrooms and a bath on the second floor, two-car attached garage, 2½ baths, and roughly 2250-2300 sq. ft. The garages are recessed from the front of the home to create a friendlier streetscape.

O'Leary referenced the surrounding uses, which make it difficult from a market standpoint to develop this property as R-1 zoning. If he could delay his application, the Village would be updating its master plan, and this property may receive a different designation.

O'Leary suggested that the R-1 zoning is inconsistent with uses on 13 Mile Road. Because there is no road connection to the rear, it would be difficult to split the property. The developers considered expanding the adjacent RM zoning, but decided against it for the reason that there is no detached option for that zoning. It is not their intention to have higher density. O'Leary believes that the R-3 cluster option is the best alternative for their purposes. There would be no risk from the Village's standpoint that there would be a multi-family unit building on the site. With respect to the concern that a developer is not bound by the site plan once the property is rezoned, O'Leary said that they are open to a conditional rezoning.

Chairman Ostrowski declared the public hearing open on this rezoning request at 8:37 p.m.

The following residents voiced their opposition to the rezoning request and the proposed cluster development. Topics of concern were as follows: The greenery and trees provide beauty and serenity for the homes in Westwood as well as a visual and sound barrier from traffic and noise on 13 Mile Road. There was a concern about increased foot traffic. The density of the proposed development was objectionable to area residents. The development is not consistent with the character of the neighborhoods that abut the property on two sides and would alter the character of the area. There are no R-3 zoning districts in the Village that abut an R-1 zoning district; R-3 zoning generally abuts R-2 zoning, businesses or public land. Density and lot size comparisons were made between the zoning districts. Property values would decrease. All of these residents asked the Planning Commission to vote against rezoning this property from R-1 to R-3.

Ann Baker Zainea	19559 Waltham
Mike Zainea	19559 Waltham
Dr. Kathleen Moltz	31170 Sunset Ct.
Dahlia Schwartz	31170 Sunset
Brian Flatter	19541 Wilshire
Paul Schwab	31448 Sunset
Todd Schafer	31504 Sunset
Jim Culbertson	31723 Waltham
Bob Walsh	20655 Smallwood Ct.
Ruth Multz	Beverly Manor Condominiums
Karen Borowy	19711 Waltham
Dan Hubert	31610 Waltham

Todd Schafer commented on the standards for rezoning considered in municipalities. He indicated that there have been no changes in conditions that necessitate a change in zoning; this property has maintained its zoning over the years. This project will benefit an individual rather than the general public. The proposal is compatible with the adjacent uses but not with the zoning classifications. Without a conditional zoning request, the petition is not locked into a project with 22 homes if the R-3 zoning is granted.

Dan Hubert, President of the Homeowners Association, stated that the proposal before the Planning Commission would cause detriment to the property values and owners' welfare within Westwood. He asked the Planning Commission to weigh any benefits to the Village against the detriment to the homeowners. He represented the 97 homeowners and the Association Board in voicing their unanimous opposition to the rezoning of this property R-3.

No one wished else to be heard; the public hearing was closed at 9:06 p.m.

REVIEW AND CONSIDER RECOMMENDATION TO VILLAGE COUNCIL REGARDING REQUEST FROM TIMOTHY PATRICK DEVELOPMENT TO REZONE PROPERTY 19600 W. 13 MILE ROAD FROM R1 TO R3

Planning Commission members agreed that there was a need for further consideration of the rezoning proposal with attention given to the objections from area residents and the challenges the project would bring to the adjacent neighbors. Members also believed that they should take into account the notion that the Village should be encouraging redevelopment and improvement of property. It was suggested that Beverly Hills could benefit from a development of some type on this property. Thought should be given to establishing how to be flexible about redevelopment in Beverly Hills. Commission members expressed the view that they were not prepared to vote on this project today without further study and deliberation.

The point was made that the petitioner could pursue a conditional rezoning request, which is allowed by the Zoning Enabling Act. Borden and Ryan outlined how conditional zoning is applied. Ryan commented that a conditional rezoning can be a dynamic, collaborative effort. The result would be that the Village would know what type of development would be built. There is a contract recorded with Oakland County including the conditions and the site plan. This would preclude reliance on a concept drawing for a development. The Legislature has given communities and developers the tools by which they can come to an agreement as to what will

be constructed on a piece of property. It is a process that can be considered if both parties are agreeable.

Motion by Jensen, second by Borowski, to postpone consideration of the request from Timothy Patrick Development to rezone property at 19600 W. 13 Mile road from R-1 to R-3.

Roll Call Vote:
Motion passed (8 – 0).

Ostrowski remarked that there will not be another public hearing when this item comes before the Planning Commission again, but public comments will be heard.

RECONSIDER SIGN REQUEST FOR HEAR USA, 31000 LAHSER ROAD

At its April 23, 2014 meeting, the Planning Commission denied the sign permit request from HearUSA for a panel to be added to an existing sign for the multi-tenant office building at 31000 Lahser Road. The proposed sign is 2.6 square feet in area and would be placed in the one remaining empty portion of the multi-tenant sign. Ostrowski stated that it is the opinion of some members and Attorney Tom Ryan that there may have been some inconsistencies with the hearing of that sign application.

Tom Ryan stated that the multi-unit sign was staying the same, but one tenant was changing. The ordinance allows the sign to continue as long as the structure of the sign is not changed. Ryan believed that the HearUSA sign is a legal nonconforming sign. Ryan recognized that the Planning Commission is attempting to direct the business owners away from the older, nonconforming signs. He noted that other communities have tried to amortize nonconforming uses out of existence by stating that any sign that does not meet the new criteria in ten years will have to be removed. This may not be a successful method due to lack of funds to follow through.

Ryan respectfully thought that this sign would be permissible under the language in Section 22.32.120 Nonconforming Signs: “3. No nonconforming sign shall be altered or reconstructed, unless the alteration or reconstruction is in compliance with the provision of this Section. For the purpose of this Section only, the term "altered" or "reconstructed" shall not include normal maintenance; changing of surface sign space to a lesser or equal area,etc.”

Stempien countered that what was requested was a panel on a nonconforming sign. Planning Commission approval of that sign would add to the nonconformity of the existing sign. He talked about other nonconforming signs in the Village and how alterations might be handled if nonconforming signage were allowed to continue. Stempien said that the Commission is trying to create conformity to the new sign ordinance.

Ostrowski noted that this is the first time a request came before the Village to replace a panel in a multiple tenant sign. There followed conversation on previous and potential changes in nonconforming signs and how they would be addressed. Signage for Biggby Coffee and Market Fresh was discussed. There was some perplexity involved in a few of the scenarios.

Jensen commented that the Planning Commission worked for several years on drafting an upgraded, modern sign ordinance. Mr. Ryan is in attendance tonight to help the Commission

interpret the ordinance. There are unanticipated circumstances that have become an issue that needs to be clarified and resolved. It was agreed that there is a need for consistency. Jensen proposed having a further discussion and clarification of the sign ordinance at the next meeting. A topic of conversation will be the consequences of the Commission's decision on the Hear USA sign permit on other nonconforming signs.

Motion Jensen, second by Borowski, to place an item on the agenda for the next Planning Commission meeting to discuss and reconsider the HearUSA sign permit request.

Roll Call Vote:
Motion passed (8 – 0).

PLANNING COMMISSION COMMENTS

Jensen expressed strong objection to Market Fresh using 10 parking spaces directly in front of the new Biggby coffee store for its flower displays instead of using the south side of their building for outdoor sales.

Westerlund observed that shrubbery was cut down in front of the utility buildings at the water tower property. Those plantings were screening transformers along 14 Mile Road. He questioned whether the Village could ask the utilities to replace those bushes. Wilson responded that the property is owned by the Southeastern Oakland County Water Authority. He will speak with the SOCWA Director about replacing the landscaping.

Westerlund mentioned that new Village residents, Kim and Mike Eberhardt, took over the responsibility of organizing the Memorial Day Parade preparations. They did a great job.

Abboud commented that he received a notice that the Zoning Board of Appeals will be hearing a request for variance in June relative to a proposal for a self-storage facility to be constructed at the former McDonald's property on Southfield Road. Abboud encouraged Planning Commission members to be present at the June 9 Zoning Board meeting when this will be discussed.

Ostrowski reiterated the need for a tree ordinance, which was evidenced in the hearing for development of a large lot along 13 Mile Road.

ADMINISTRATION COMMENTS

Wilson remarked that he was also disturbed by the temporary flower display by Market Fresh located in front of Biggby Coffee, a new business in the Village. He related that someone in the Village office approved the display location. Wilson has directed staff that all outdoor sales requests must go through the Village Manager. He spoke with Mr. Karmo from Market Fresh and informed him that Fall outdoor sales will not be allowed in the parking spaces in front of Biggby coffee.

Wilson updated the Planning Commission on the land division application for 31805 Evergreen Road. He has had several discussions with the developer regarding engineering, road location, and accessibility issues. A site plan will be coming before the Planning Commission at an upcoming meeting.

With regard to signage issues, Wilson expressed the view that it should be stated in the ordinance if it was the Village's intent to make nonconforming signs subject to tenant rollover. He was not certain if that would be in keeping with state statutes regarding grandfathering rights, but it would have given Administration something to show petitioners. Wilson did not know whether tenant change outs was a standard that the Village would be able to uphold.

PUBLIC COMMENTS

Todd Schafer of 31504 Sunset, Zoning Board vice-chair, stated that he appreciated the time and effort of the Planning Commission. He referred to the HearUSA sign and discussion between Attorney Ryan and members on the interpretation of the sign ordinance. It appears that a future case involving a sign request that was denied could end up at the ZBA for ordinance interpretation. Schafer would suggest clarifying the sign ordinance if the Planning Commission did not want this to occur.

Schafer mentioned the upcoming case on the Zoning Board agenda regarding the use of the former McDonald's site as a self storage unit. Schafer was concerned that he and other members of the Board may not be well versed on the overlay district and its intent. He suggested that Zoning Board members receive some background and guidance on these issues prior to the June 9 hearing.

With regard to the topic of contingent zoning, Schafer understood that the petitioner needs to make that application. He thought that Timothy Patrick Development would have to reinitiate the process to rezone property on 13 Mile Road with a submittal for contingent zoning, which would require another public hearing.

Schafer commented on the request for signage for the Michigan Beer Growler store. He concurred with the decision of the Planning Commission to approve the sign contingent on the applicant receiving a variance from the Zoning Board of Appeals. Schafer mentioned that he will not be requesting to be reappointed to the ZBA after 15 years of service.

Motion by Borowski, second by Westerlund, to adjourn the meeting at 10:05 p.m.

Motion passed.

George Ostrowski
Planning Commission Chairman

Ellen E. Marshall
Village Clerk

Susan Bernard
Recording Secretary