

**MINUTES
CITY OF FARMINGTON HILLS
PLANNING COMMISSION PUBLIC HEARING/REGULAR MEETING
31555 W ELEVEN MILE ROAD
FARMINGTON HILLS, MICHIGAN
OCTOBER 21, 2021, 7:30 P.M.**

CALL MEETING TO ORDER

The Planning Commission Regular Meeting was called to order by Chair Stimson at 7:30 p.m.

ROLL CALL

Commissioners Present: Brickner, Countegan, Mantey, Orr, Schwartz, Stimson, Trafelet, Varga, Turner

Commissioners Absent: None

Others Present: City Planner Stec, City Attorney Joppich, Planning Consultant Arroyo,

APPROVAL OF AGENDA

MOTION by Orr, support by Countegan, to amend and approve the agenda as follows:

- Add: *F. Green Site Ordinance*

MOTION carried unanimously by voice vote.

REGULAR MEETING

A. LANDSCAPE PLAN 63-9-2021

LOCATION:	30955 Northwestern Hwy
PARCEL I.D.:	23-12-126-037
PROPOSAL:	Revised landscape plan for an existing building in an RA-1A One-Family Residential District permitted to be used for OS-1 Office Service District by consent judgement
ACTION REQUESTED:	Planning Commission approval
APPLICANT:	Sapphire Landscaping
OWNER:	Blackstone 13, LLC

City Planner Stec explained that this parcel was under a consent judgement permitting it to be utilized for office purposes. The consent judgment required several items for the west side of the lot facing residential zoning:

- 40-foot setbacks and 10-foot parking setbacks
- A 5-foot berm within the setback, with a minimum width of 10 feet, to be planted and maintained as a permanent greenbelt in accordance with Section 1910 of the zoning ordinance, which was in force at the time.
- Driveway access from Davis Lane had to occur within 125 feet of 13 Mile Road.

A new owner who had purchased this property and was in the process of getting it ready for a potential sale had removed the existing landscaping, and a revised landscape plan had been submitted. The original landscape plan had also been provided. The Planning Commission should determine if the site could be treated as a clean site under today's ordinance requirements, or whether the original plan, developed under old ordinance requirements, should apply.

Referencing his October 13, 2021 memorandum, Planning Consultant Arroyo gave the background and review for this request for landscape plan approval:

- Generally the plantings along the west of the property were in conformance with the consent judgement. The greenbelt on the west side of the property was required to comply with the provisions of the old ordinance's Section 1900. The width of the existing greenbelt was maintained on the plan, though it was not labeled.
- There was a requirement for the plantings to be 4' from the property line. Distances were not dimensioned, but it appeared that the trees on the southern side of the property were on the property line; there was no room to place them 4 feet off the line. The Commission should determine what was appropriate and reasonable in this case.
- Height needs to be provided for large shrubs and hedge shrubs.
- 15 trees were listed as being provided to meet the parking lot tree requirement. The trees were located throughout the site, but none were internal to the parking lot; the parking lot was not being modified at this time. The Commission must determine if the intent of the ordinance was met by this arrangement.
- It appeared that most of the site's existing trees would be removed, but no tree inventory was provided, nor was a plan provided showing the existing trees in place on the site. Based on a site visit, the originally approved landscape plan for the site does not match what is present. However, there were very few locations where trees could be added because the site was so tight.

In response to a question from Commissioner Orr, Planning Consultant Arroyo said existing trees were along the property line.

Commissioner Schwartz pointed out that the existing berm on the west side was only 1'-2' tall, and did not serve a screening function. Per the consent judgment, there should be a berm there, and Commissioner Schwartz wasn't sure the Commission could change that requirement.

Planning Consultant Arroyo said that there should never have been a requirement for a 5' berm at this narrow location. A 5' berm would require steep slopes, which would not meet current ordinance requirements, and which would encourage berm erosion.

Chair Stimson invited the applicant to make her presentation.

Amy Ackerman, Sapphire Landscaping, 210 S. Woodward, Birmingham, was present on behalf of this application for landscape plan approval. Ms. Ackerman said the old ordinance referenced a berm "or a wall." She agreed it was impossible to place a 5-foot berm in the narrow space available – for safety as well as other reasons. The intent of the requirement was to screen headlights from the neighbors and that was being taken care of.

Commissioner Orr said the original 1987 plan did not show any development along 13 Mile Road where there was now a brick wall. It was likely the consent judgement was not considered when that wall was constructed.

Commissioner Brickner wondered whether a 40-year-old consent judgement would actually still govern the property.

City Attorney Joppich said he could not answer the question definitively, but amending the consent judgement was a fairly simple process, although it would require action from City Council.

After brief discussion regarding consent judgement process and how that might impact tonight's action, the following motion was offered:

MOTION by Brickner, support by Trafelet, that revised Landscape Plan 63-9-2021 for 30955 Northwestern Hwy., dated September 20, 2021, submitted by Sapphire Landscaping, be approved because it appears to meet all applicable requirements of the Zoning Chapter, subject to the following condition:

- Revised plan addressing the items identified in the 10-13-2021 Giffels Webster review report be submitted for administrative review.

And with the following recommendation:

- If it is determined that the consent judgment needs to be amended to allow for this landscape plan approval, the amendment to the consent judgment should reflect the final revised plans approved at this meeting, and which are in conformance with the current ordinance.

Motion carried unanimously by voice vote.

B. ZONING TEXT AMENDMENT 2, 2021

CHAPTER OF CODE:	34, Zoning Ordinance
PROPOSED AMENDMENT:	Amend the definition of "Family" and various sections of Chapter 34, Zoning to provide equal housing opportunities particularly suited to the needs of persons entitled to reasonable accommodation under state or federal law within One Family and Planned Residential zoning districts
ACTION REQUESTED:	Set for public hearing
SECTIONS:	34-2.2, 34-3.1.1 through 34-3.1.9, add new Section 34-4.60

City Attorney Joppich gave the background for this request to set Zoning Text Amendment 2, 2021 for public hearing:

- Changes had occurred regarding the interpretation of the Fair Housing Act during the period the City has used its current definition of family, which had been in place for some time.
- There had been litigation regarding the Fair Housing Act, specifically as the Act applied to group homes.
- For many years the State Zoning Enabling Act had required that any house that was occupied by a group home licensed by the state with 6 or fewer residents must be treated as a single family home, regardless of the definition of family in a local ordinance.
- If a group home had more than 6 residents, the City had interpreted the use not to be single family.
- Court cases had been decided that in certain circumstances, based on the character of the neighborhood and nearby zoning uses, 7 or more residents in a group home could be considered a single family use, and in one city case it was argued that 13 residents in a group home should be considered a single family use for purposes of reasonable accommodation under the law.

- At that point the City began to look at: 1) Does the City need to look at its definition of family? and 2) Does the City need to consider standards to use to make a determination of reasonable accommodation?
- The Fair Housing Act requires that the City provide reasonable accommodation for certain protected classes, such as individuals who live in a group home.
- The draft ordinance provided this evening takes into consideration some of the factors that court decisions have taken into consideration regarding the definition of a group home as being a single family residence, including: the character of the area, neighborhood, and surrounding zoning districts and uses. The new ordinance language would give city staff the ability to make a determination as to whether a reasonable accommodation was being provided, and to address the question of reasonableness.
- A number of Michigan communities had this type of ordinance.

Discussion included:

- Group homes were almost universally non-profit.
- The ordinance also applied to a group of 6 or fewer people who wanted to live together who did not have a disability.
- This ordinance was not intended to apply to Airbnb and other similar rentals.

Planning Consultant Arroyo reviewed the draft changes to the definition of *Family*, along with new definitions for *Reasonable Accommodation*, and *Special Accommodation Residence*. There were also new proposed regulations for Special Accommodation Residence, providing the intent: *to authorize the grant of relief from the strict terms of this Ordinance in order to provide equal housing opportunities . . .* under the Federal Fair Housing Act, the Americans with Disabilities Act, and the Rehabilitation Act. Topics with accompanying narrative and sub-paragraphs included:

- A. Intent
- B. Applicability
- C. Conditions of Approval
- D. Application Provisions
- E. Standards and Regulations
- F. Conditions
- G. Effect of Approval

The use was proposed to be added as a principal permitted use in all districts that permitted single-family use.

Discussion:

- The Planning Department was comfortable with this ordinance amendment, in terms of how group home applications would be approved and enforced.
- In the traditional definition of family (Par. 1 under Family definition) for persons related by consanguinity, marriage, or adoption, etc., not more than one unrelated person could also be living in the home, thereby allowing for an exchange student, for example, or other unrelated person to be living there.
- Homeowner Association deed restrictions were not enforced by the City. Deed restrictions could be stricter than the zoning ordinance, but could not violate Federal and State law.

Chair Stimson indicated he was ready to entertain a motion to set the Zoning Text Amendment to a date uncertain, in order to give City Council a chance to review the language and provide input prior to action being taken.

MOTION by Countegan, support by Turner, that Zoning Text Amendment 2, 2021, be set for public hearing to a date uncertain by the Planning Commission, such date to be after the draft ordinance has been provided to, and input has been received by, the City Council.

Motion carried unanimously by voice vote.

C. APPOINTMENT OF MEMBERS TO JOINT CITY COUNCIL AND PLANNING COMMISSION AD HOC SUBCOMMITTEE ON MASTER PLAN AND VISIONING PROCESS

The Joint City Council and Planning Commission Ad Hoc Subcommittee on Master Plan and Visioning Process will be comprised of 3 members each of the City Council and the Planning Commission. The Ad Hoc Committee will dissolve upon commencement and implementation of the master planning process. City Council had appointed Mayor Barnett and Council Members Strickfaden and Knoll.

MOTION by Countegan, support by Trafelet, to appoint Chair Stimson and Commissioners Varga and Brickner to the Joint City Council and Planning Commission Ad Hoc Subcommittee on Master Plan and Visioning Process.

Motion carried unanimously by voice vote.

D. 2020 US CENSUS DATA PRESENTATION

City Planner Stec led a discussion of the 2020 U.S. Census Data, provided by Charmaine Kettler-Schmult, Community Development Coordinator. The data was just beginning to be released, and more data, including detailed population by age, households, and housing units by type, will be released in phases by the Census Bureau during the fall and winter.

SEMCOG had updated their web site with community profiles and interactive maps also utilizing the 2020 data.

The Commission discussed the importance of this data as it related to future planning.

E. PAST PLANNING COMMISSION INITIATIVES REPORT

City Planner Stec said that in response to recent meetings with City Council regarding the City's vision and upcoming Master Plan update process, Commissioner Schwartz had put together a presentation regarding past Planning Commission initiatives.

Commissioner Schwartz said he felt the information contained in the presentation was important as an overall review of some of the history of development in the City that had resulted from Planning Commission vision and action, as well as some of the initiatives the Planning Commission had attempted to put forward that had not come to pass. Topics included:

- Obstacles to "cool things" being implemented.
- Other obstacles to implementation of "cool things."

- Common misperceptions about land use planning
- “Cool Things” that did not get implemented
- Some things have worked
- Where do we go from here?

Discussion:

- The Commission supported this presentation which explained overall process, the role of the Commission, the purpose and potential results of successful PUD plans, etc.
- The presentation also explained why certain aspects of the Commission’s vision were not implemented, even after lengthy discussions and the development of ordinance/master plan language, including the mixed use redevelopment of Orchard Lake Road and the vision of the redevelopment of the Grand River Corridor.
- On the other hand there had been notable successes, as listed under “Some Things Have Worked”.
- The impact of the recession of 2008-2009 could not be minimized, and it was remarkable what had been achieved during and following that time, including the redevelopment of the 12 Mile Road corridor. Council was unaware of some of the most innovative projects, which were approved by the Planning Commission and did not go to City Council.
- It remained important for the Planning Commission to be open to innovative ideas when it reviewed and acted upon certain PUD projects.

After discussion regarding the desire of the Commission to be present during this potential presentation to City Council, and acknowledging the need to act in accordance with the Open Meetings Act, a motion was made and then amended to read as follows:

MOTION by Countegan, support by Orr, that the Planning Commission request a joint study session meeting with City Council in order to present the Past Planning Commission Initiatives Report as discussed this evening.

Motion carried unanimously by voice vote.

F. GREEN SITE ORDINANCE

Commissioner Schwartz led a discussion regarding his memo to the Commission regarding a potential ordinance for public property, regarding green development and redevelopment of City buildings.

Commissioner Schwartz said that during recent meetings with the City Council, green development and technologies were encouraged. However, the City’s own most recent redevelopment effort – The Hawk – did not implement many of the desired strategies and components of green development. At some point in the future the City will have to renovate the Ice Arena, five fire stations, the Costick Center, and the DPW building. The purpose of the memorandum was to begin a dialogue about a potential ordinance requiring green redevelopment of those properties.

Discussion:

- Perhaps the information presented would be best adopted in the form of a policy, and not as an ordinance requirement.
- The consensus of the Commission was to present this proposed policy as a discussion topic at the joint meeting requested for the presentation of the *Past Planning Commission Initiatives Report*.

APPROVAL OF MINUTES September 20, 2021, Special Joint Meeting
September 23, 2021

MOTION by Orr, support by Trafelet, to approve the September 20, 2021 Special Joint Meeting minutes and the September 23, 2021 regular Planning Commission meeting minutes, with the following correction:

- September 20, 2021 Special Joint Meeting, page 1, under Planning Commission Members
Absent: ~~None~~ Orr

Motion carried unanimously by voice vote.

PUBLIC COMMENT

None

COMMISSIONERS' COMMENTS

As this was City Planner Stec's last meeting, the Commission thanked him for his years of service to the City and to the Commission, and relayed memories of working with Planner Stec on projects that impacted the City and the area.

In response to comments from Commissioner Orr, the Commission discussed the interrelationship of the Capital Improvement Plan and the Fire and Police millage funds.

The next meeting will be November 18.

ADJOURNMENT

MOTION by Orr, support by Varga, to adjourn the meeting at 9:30 p.m.

MOTION carried unanimously.

Respectfully Submitted,
John Trafelet
Planning Commission Secretary

/cem