

**PLANNING COMMISSION
MEETING MINUTES
January 20, 2016
CITY COUNCIL CHAMBER
7:00 P.M.**

I. CALL TO ORDER

The meeting was called to order at 7:04 p.m.

II. ROLL CALL

Present: R. Johnson, H. Jugenitz, A. Bedogne, C. Zuellig, B. Mason, L. MacGregor

Absent: P. Hollifield (excused)

Staff: Bonnie Wessler, Planner II
Nan Schuette, Executive Secretary
Cynthia Kochanek, Planner I

III. APPROVAL OF MINUTES

Commissioner Jugenitz moved to approve the minutes of December 16, 2015 with correction as noted (Support: A. Bedogne) and the motion carried unanimously.

IV. AUDIENCE PARTICIPATION

None

V. NEW BUSINESS

1. Map Amendment (Rezoning) 943 N. River

Staff report was presented by C. Kochanek who stated that this is a request from DTE to rezone the northern portion of the parcel to Production, Manufacturing & Distribution (PMD), which is a 75 acre parcel. The total area to be rezoned is 5.015 acres. The proposed rezoned area will take up most of the parcel's street frontage on Clark Road and the northern portion of the frontage on N. River St. A solar array is planned for the proposed rezoned area. The property is currently zoned P-Park and is used as a cemetery. The property owner wishes to allow DTE to place an easement on the property and to install the solar array.

The subject property is within the "District" future land use. This parcel is in the northern part of the City with Superior Township located directly to the north and Ypsilanti Township to the east and west. Ms. Kochanek noted the surrounding land uses and zoning and also rezoning implications. She reviewed the accepted criteria for evaluating a rezoning request and staff's response to each, which is included in the staff report dated January 15, 2016. Staff is recommending approval of this request with findings as also noted in the January 15, 2016 report.

Chairman Johnson asked Ms. Wessler, City Planner, if this request is consistent with the Master Plan, to which she responded in the affirmative. He further questioned if this could be done in any other area of the City and Ms. Wessler responded that there was no other area available. Commissioner Zuellig asked Ms. Wessler if she was aware of other communities that have solar arrays and Ms. Wessler responded that she did not know but could check. Commissioner Zuellig asked if this would be approved as an accessory use, or conditional use. Ms. Wessler responded that if it was zoned an accessory use, it would have to be clearly an accessory to the cemetery and the power generated by this installation is meant to go back into the grid - it would be a stand-alone. As for conditional rezoning, the applicant would have to clearly offer conditions, which Ms. Wessler stated this could be a limited use rezoning that could be used for a use that fits in that location but is an exception. Commissioner Zuellig asked about making it a special use within a district and Ms. Wessler, responded that a text amendment could be done. Chairman Johnson also asked if this would be a new definition, which Ms. Wessler confirmed. Commissioner Zuellig wondered if there was any way to change the zoning from a park to something that does not affect parks but would allow more leniencies with the cemetery. After further questions of the City Planner, Commissioner Zuellig moved to open the public portion of the hearing (Support: B. Mason) and the motion carried unanimously.

Five emails were received by the Planning Department from city residents and Superior Township residents in opposition to this request.

Barry LaRue, 302 Oak – stated that he serves on the Highland Cemetery Board, principally on the sub-committee, that came up with the plan and has been with negotiating with DTE. He gave some background information on the property in question. The City had previously looked at the old city landfill for DTE but it was determined that this would not be feasible for environmental reasons. They looked at some public school properties and finally noticed there was an unused piece of property of the city at the end of the cemetery. The array will not be visually inappropriate to the cemetery and would have an unimpeded southern exposure. They have about another 20 years of plots available before they would have to expand into that area, and possibly longer. They have a limited income stream and this would help take care of the beautiful monuments and historic chapel, etc. for a number of years. The trends are going more toward cremation. The agreement would limit the number of years of use and DTE would restore it back to its original state. The lease is for 20 years, with a possible addition of 10 more years but gives the cemetery some flexibility for future use if required.

Brian Czubko, Project Manager for NOVA Consultants, who are DTE's engineering contractor was in attendance to represent the project and site evaluation. He has been involved with this project since the beginning. They have solar arrays in various districts in other areas; agricultural, PUD districts, parks, i.e. Huron/Clinton Metro Park has one near

Pontiac. The installation can be harmonious with the site, adding shrubs and trees to block the site and the design is such that posts driven into the ground can be taken out and solar panels can be removed quite easily. Currently, they have a conditional agreement with the cemetery, which includes installing prairie grass mix, which is good for wildlife too. The solar panels convert energy from DC to AC collecting energy from inverters to solar panels. They do not emit any noise.

Commissioner Johnson asked how big the panels were and Mr. Czubko responded that they are approximately 24" x 54", less than 2500 of them, 4 rows deep. There is an inherent safety valve that turns off automatically, i.e. hit with lightning, etc. Commissioner Zuellig asked about access and Mr. Czubko responded that they will be using the existing driveway, with as minimal grading as possible. There is one regulated wetland on the site to the west of their area but they will not be approaching it.

Dave Strenski, 323 Oak Street – founder of Solar Ypsi, stated that it is his opinion this is a good project for the city and would put a positive image on Ypsilanti.

Jack Smiley, resident of Superior Township – introduced himself adding his educational background, which is in urban planning. He has also taken two zoning law classes and is a licensed Michigan Real Estate Broker. He founded the Southeast Michigan Land Conservancy nearly 30 years ago and his primary interest has always been the correlation between land conservation and urban revitalization. He stated he is strongly opposed to the rezoning of a portion of the historic Highland Cemetery from P-Park District to PMD, Production, Manufacturing and Distribution and is requesting that the Planning Commission deny this request. He considers this "spot zoning" which does not fit with the Master Plan; would disrupt the ecological area and feels that it is likely there are rare plant species on the site in question. While he is an ardent supporter of solar energy, he is opposed to the use of this green space for this purpose. He included a written outline of his request for denial, giving more detailed thoughts and reasons as to why he feels that this request should be denied, which would be available for anyone to peruse, copy of same can be obtained in the Planning Department.

Ross Gladwin, Superior Township Resident – lives approximately ½ mile from the proposed site. He agrees with Mr. Smiley and his vision of extending a non-motorized nature trail from the Superior Greenway to the City of Ypsilanti. He sees many people walk around that area. It would also be an important idea re-aligning that intersection as well as adding sidewalks and non-motorized trails. He is all for solar power but Mr. Smiley makes a point that is an inappropriate location and he supports his comments.

Steve Pierce, S. Washington – supports this proposal – feels that it serves an important service. He recognizes that Highland Cemetery is historic and the income will definitely help in maintenance of the Starkweather Chapel and other historic markers. This project is temporary and will be an extraordinary benefit to the city. He feels that it is unfair to describe it as an industrial facility. It is an open space and extremely limited by state law as to what can be done with the property. It is very constrained. He supports this request.

Commissioner Jugenitz moved to close the public portion of the hearing (Support: A. Bedogne) and the motion carried unanimously.

Chairman Johnson stated that there is a difference of opinions in the environmental impact of this project. Mr. Smiley had a number of issues with the conditions and Chairman Johnson asked staff if they had any comments in response to his issues. The City Planner, Ms. Wessler, responded that Mr. Smiley believes there will be a negative impact on the neighborhood and this request fails to meet the criteria of standard #2. She feels that this is a difficult thing to quantify and is in the eye of the beholder. Staff understands that they have had a lot of positive comments from the public regarding the solar panels. With regard to the comment on private open space, the public has less of a claim on what can be done with the land, as long as they are within the boundary of the law. Spot zoning relates to the district in the Master Plan and this does comply with the Master Plan. The District is a single use classification, but does not specify the type of use. Ms. Wessler explained in more detail giving examples.

Commissioner MacGregor asked if we rezone to PMD at the end of 20 years, what will it revert to and Ms. Wessler responded that it would revert back to whatever it is zoned at that current time. Ms. MacGregor also asked about creating a new classification, to which Ms. Wessler responded that we could create a new zoning district, or conditional rezoning, or add as a special or permitted use in the district; there are several options that could be considered.

Chairman Johnson added there is still a difference of opinion – as to what is appropriate for that spot, and then decide the most effective way to put it into effect or simply come up with a new definition of a use that takes into account alternative energy as opposed to a traditional energy plant. Is this an appropriate spot for this use? There was also some discussion about a non-motorized trail and if this will negatively affect it. Ms. Wessler responded that it is usually more appropriate to have it closer to the river.

Commissioner Zuellig is very supportive of the solar array, however, this is a rezoning request to PMD which is a permanent rezoning from the least intensive use that we have in the city, surrounded by all open agricultural rural spaces and does not support rezoning to PMD without a lot of conditions. She also asked if setbacks could be moved back so it would not be as close to the street. There are endangered species and wonders if any survey had been completed. Ms. Wessler responded that to her knowledge, no survey had been done on endangered species.

Commissioner Bedogne supports solar panels on this property – feels it is a good thing for the City and the cemetery. He also feels that the non-motorized greenway can still be accomplished, by adding flowers, etc. but he is struggling with the way staff is recommending we do this. He doesn't like a grey five acre "L" of PMD on the map so would like to find another way to do it. Chairman Johnson says there are two ways – still do rezoning PMD with conditions, come up with a new definition that would accommodate solar panels in a way that is consistent, that doesn't allow other things in, i.e. special use.

Ralph Lange, City Manager – apologized for being late. He did all the negotiating for this contract. There has to be a three party deal – the city has an agreement for revenue sharing on this with the cemetery. It was originally going to be on the landfill but it did not come to fruition for a number of reasons. Since this is such a high priority for the city to have solar, staff looked at every available spot for the city and could not find another potential location. The City is totally supportive of having this in this specific location.

Chairman Johnson noted that if the city does want to have a solar array, this is probably the only spot where it could be located. Staff needs specific direction by the board. Ms. Wessler stated that a conditional rezoning could be sought, but it is the obligation of the applicant to provide specific conditions. She offered the following possible directions for the Commission:

1. Create a rezoning category that would be like spot zoning for the whole cemetery
2. Add solar arrays as a special use to the existing park district
3. Continue on the course we are and hope the applicant offers conditions
4. No option (no rezoning, no text amendment).

Ms. Wessler stated that to create a solar array in the park district would require a text amendment.

Brian Czubko, Project Manager for NOVA Consultants. Agreed to provide specific conditions – they would offer only a solar array would be allowed in the park slightly adjusting the setback that would not stop them from putting in the size they need, and whatever uses the city planner, DTE, and Planning board can come to some agreement on. They also request that it go on a parallel path with site plan and rezoning application. DTE has a specific time limit.

After further discussion, the consensus of board was to go with a text amendment for solar array. Commissioner Bedogne didn't think the park designation worked at the time we were working on the new Zoning Ordinance for the cemetery, but now we are challenged, we should not make it an industrial zone but keep solar panels allowed in a park as a special use.

Commissioner Zuellig moved to table the Highland Cemetery rezoning and direct staff to develop a text amendment to create solar farms definition and define it as a special use in the park district designation. The motion was supported by Commissioner Jugenitz and after a voice vote, carried unanimously.

VI. OLD BUSINESS

1. Annual Report

Ms. Wessler stated it is not ready for approval at this time. She would like to discuss if all the Planning Commission goals should be included in the Planning Commission's report. She will update the matrix and asked board members for any input to share with staff.

VII. FUTURE BUSINESS DISCUSSION/UPDATES

1. Special Meeting to be held on Wednesday, February 10th to discuss text amendment.
2. A training meeting consisting of both Planning Commission and Zoning Board of Appeals will be held on Wednesday, January 27, 2016 at 7:00 p.m. Prior to the meeting ZBA will hold a short meeting to take care of regular business.

VIII. COMMITTEE REPORTS

1. Non-Motorized Committee – Re-appointment of Commissioners

Commissioner MacGregor moved to re-appoint Martha Cleary and Anthony Bedogne to the Non-Motorized Committee (Support: H. Jugenitz) and the motion carried unanimously.

2. Non-Motorized Committee Minutes dated January 7, 2016 and 2015 Annual Report was included in the packet.

IX ADJOURNMENT

Since there was no further business, Commissioner Zuellig moved to adjourn the meeting (Support: H. Jugenitz). The meeting adjourned at 9:00 p.m.