

**PLANNING COMMISSION  
MEETING MINUTES  
March 15, 2017  
CITY COUNCIL CHAMBER  
7:00 P.M.**

**I. CALL TO ORDER**

The meeting was called to order at 7:00 p.m.

**II. ROLL CALL**

**Present:** H. Jugenitz, C. Zuellig, A. Bedogne, L. Dahl MacGregor, M. Dunwoodie,  
P. Hollifield, J. Talaga, T. Dennis, C. Madigan

**Staff:** Bonnie Wessler, City Planner  
Cynthia Kochanek, Associate Planner  
Nan Schuette, Executive Secretary

**III. APPROVAL OF MINUTES**

Commissioner Dunwoodie moved to approve the minutes of January 18, 2017 (Support: C. Zuellig and the motion carried unanimously.

**IV. AUDIENCE PARTICIPATION**

None

**V. PRESENTATION AND PUBLIC HEARING ITEMS**

Special Nonconforming Status: 1111 W. Cross Street

Staff report was presented by C. Kochanek, Planner I, who stated that this is a request for approval of a special nonconforming status

This parcel is 0.16 acres on W. Cross St. between N. Wallace Blvd and Hiawatha in the Normal Park area of the city. The structure has frontage on the south side of W. Cross and contains two units in 1,904 sq. ft with a stoop on the front of the house and a 120 sq. ft enclosed porch at the southwest corner of the house. There is also a 308 sq. ft one and half car garage at the southeast corner of the parcel.

The property is currently zoned R-1, Single Family Residential, the two units are nonconforming under the current zoning ordinance. The house was built in 1951. When the first zoning ordinance went into effect for the city in 1925, the property was zoned Class B, which allows for family residences of one or more units. By October 1951, the zoning for the property was R-1,

single family residential. A building permit was requested to construct a two unit structure on September 7, 1951. In 1990, the Planning Department sent a letter to the owner of the property that recognized it as a non-conforming use and a duplex. No special use permits have previously been approved for this property. In 1955, the Board of Appeals determined that the average rear setback for accessory structures at the surrounding properties was 22.83 feet and permitted the garage at 1111 W. Cross to be built up to that setback.

The property has a Certificate & Occupancy from the building department that is valid through June 1, 2017. There are no proposed changes to the site, the applicant is only pursuing the special nonconforming status in order to rebuild as two units in the event of a casualty. Staff recommended approval of the request with findings and conditions, which included that all lighting should be replaced or upgraded.

Commissioner Dennis moved to open the public portion of the hearing (Support: L. MacGregor) and the motion carried unanimously. Since there was no input from the public, Commissioner Dennis moved to close the public portion of the hearing (Support: L. MacGregor) and the motion carried unanimously.

Commissioner Dennis moved that the Planning Commission approve the Special Nonconforming Use permit for the duplex at 1111 W. Cross St with the following finding and conditions:

Finding:

1. The application substantially complies with Sec 122-206.

Conditions:

1. All the exterior lights at the rear are to be replaced or upgraded, they need to be replaced with fixtures that are dark sky compliant and conform to Sec 122-641.
2. If the structure needs to be rebuilt, it cannot be more non-conforming in regard to the yard setback.
3. The rental Certificate of Compliance & Occupancy must be successfully renewed as prescribed by law and maintained as long as the structure is utilized as a rental property.

Commissioner Zuellig supported the motion. A roll call vote of 9:0 carried unanimously

## **VI. NEW BUSINESS**

### 539 S. Huron Street – Site Plan Review

Ms. Wessler stated that this is a request for approval of site plans for new building and location on site at 539 S. Huron on the east side of the city. They would be moving from a 540 sq. ft building to a 7,000 sq. ft. building, however, they would only be allowed to use approximately 540 sq. ft. for the medical marijuana dispensary until the law changes. Our laws will be changing but at this time, we have no idea how it will change. The property was zoned B2-Community Business, which allowed medical marijuana dispensaries as a permitted use in 2014 when this use was established. The property is currently zoned GC-General Corridor, which no longer permits medical marijuana dispensaries, this is a legal nonconforming use.

Ms. Wessler added that the north half of the proposed building is not involved; the south only – there are defects with circulation, no master sign but can be resolved at time of application, lot of parking on site with a shared driveway entrance. There are minor landscaping issues – not enough information on the plan for lighting, there are challenges on engineering, specifically maneuvering, and we also need an update on the elevation. Staff recommended approval with 12 conditions including limited use, which was detailed in the February 20, 2017 staff report.

Commissioner Bedogne confirmed the use of only 540 sq. ft and asked staff why the applicant would request the use of the 7,000 sq. ft. and Ms. Wessler responded that it would possibly be with the hope that the laws would change.

Commissioner Hollifield asked how we would monitor that amount of space and Ms. Wessler responded that it would be thru inspections.

Commissioner Zuellig asked how the building would be split up, i.e. restroom, etc. and Ms. Wessler responded that nothing had been submitted at this time. It would have to be re-designed to accommodate the 540 sq. ft.

**Fareed Mojaradi, Architect, 29929 Ravenscroft, Farmington Hills** – was accompanied by James Nemeth, owner of the property, and the General Contractor, Jay Bivins, Metro General Contracting, Wixom, MI, for the project. Mr. Mojaradi responded to the question put forth by the board on what the plan is to accommodate the requirements of this business with the 540 sq. ft. space in this 7,000 sq. ft. building. He stated that he understood that the building was grandfathered and the applicant could build a larger building to serve people better. Mr. Nemeth added that they have more and more caretakers coming in every day and there is a need for a larger building. When they originally located there, it was B1, which permitted medical marijuana dispensaries and then the zoning changed to GC, which no longer permits medical marijuana dispensaries, changing it to a legal nonconforming use.

Staff has stated that an existing structure containing a nonconforming use shall not be enlarged, constructed, reconstructed, moved or structurally altered or extended, unless the use is changed to a use which is permitted in the strict in which the structure is located.

Chairperson Jugenitz thanked Mr. Nemeth for his input and detail of his long-term plans.

Commissioner Zuellig asked staff what the options are for the applicant. Ms. Wessler responded that they could consider a Planned Unit Development (PUD). She added that they would require more than one acre for a PUD and at this time, there is some discrepancy in the total area of the parcel. Assessing indicates that the parcel is 0.96 acres and the survey included with the plans indicates parcels 1 and 2, which make up the parcel, are 1.24 acres. We no longer have use variances.

Commissioner Bedogne asked what other zones allow dispensaries and staff responded that Center allows dispensaries, GC allows growth and special use and PMD also allows growth and special use.. Commissioner Zuellig asked if the law changes what the applicant's options would be. Ms. Wessler responded that there would be opportunities to make changes but we do not know at this time. She and Dan Duchene, City Attorney, are going before Council on 3/21 to

discuss draft licensing ordinance. She hopes to have a final ordinance sometime in August, although she realizes that this is quite ambitious.

Commissioner Zuellig stated that currently it is not within the jurisdiction of the Planning Commission to allow the applicant the ability to expand their business to 7,000 sq. ft. and Ms. Wessler concurred.

Commissioner Zuellig stated that at some time, she and other members would like to sit with staff to go over the requirements of a PUD, to which, Ms. Wessler offered to do that at a time it was convenient for all members. Commissioner Zuellig also stated that we should know more about what would be contained in a 7,000 sq. ft. building and how it would be used.

Chairperson Jugenitz stated that to clarify, the action we are currently authorized to take with regard to this site application under the current zoning ordinance, would limit us to grant the use of only 540 sq. ft unless a new application for a PUD came before us. Given that it doesn't sound like this current application, if it were limited to the dispensary use of only 540 sq. ft., is of interest to the applicant, we could not approve this application at this stage. We could leave on table or make a determination and then informally advise the applicant to come back for a PUD approval, however, the amount of acreage would have to be clarified.

Ms. Wessler stated the various options that would be available to the applicant. Commissioner Dennis asked the applicant if they were interested in application for a PUD. Mr. Mojarardi responded that his client would prefer to withdraw and sit down with staff to be made aware of the requirements of a PUD.

Chairperson Jugenitz stated that to sum up, it sounded that the members feel the PUD is the preferred approach – if so, the applicant would need a global plan for use of existing and new parking on how space to be utilized and incorporated in a future PUD. Commissioner Bedogne stated that he is concerned about the PUD directive and is of the opinion that we could be setting a precedent for other dispensary loopholes throughout the community in general. Once we allow a change for this site, it could set a precedent for other dispensaries to do the same thing. We should be cautious on how we direct the applicants, especially, since there are two other dispensaries that could be PUD's that are located in GC. Commissioner Zuellig agreed that we should be careful of our direction. Chairperson Jugenitz told the applicant that they should not construe the comments made by the board regarding future ways on how this application could be presented, as approval of a future application.

After further discussion, Commissioner MacGregor moved to table this item (Support: P. Hollifield). A roll call vote of 9:0 carried unanimously.

## **VII. OLD BUSINESS**

None

## **VIII. FUTURE BUSINESS DISCUSSION/UPDATES**

1. Ms. Wessler stated that due to the number of projects she is working on, she was unable to complete an update on non-motorized requests but plans to include it in the April meeting.
2. Chairperson Jugenitz welcomed our new board member, Chris Madigan.

## **IX. COMMITTEE REPORTS**

Non-motorized Advisory Committee – March minutes were included in packet. Commissioner Bedogne stated the non-motorized committee are meeting on Monday and have done some public outreach and have documentation of that. They will compile this into one format and hope that will suffice to get approval.

Ms. Wessler stated that a resident had commented on a misstatement in the December minutes. They will be corrected and brought back for approval in April.

Chairperson Jugenitz reminded the board members of the joint meeting with HDC and ZBA to be held on the next evening at Riverside Arts Center.

## **X. ADJOURNMENT**

Since there was no further business, Commissioner Zuellig moved to adjourn the meeting (Support: P. Hollifield) and the motion carried unanimously. The meeting adjourned at 8:00 p.m.