

**PLANNING COMMISSION
MEETING MINUTES
MAY 15, 2002**

I. CALL TO ORDER

The meeting was called to order by Vice Chair Malmer at 7:35 P.M.

II. ROLL CALL

Present: A. Malmer, R. Miller, E. Turner-Jones, F. Enneking,
G. Clark, R. Johnson, J. Adams

Absent: F. Davis (excused)

III. APPROVAL OF MINUTES – April 17, 2002

E. Turner-Jones moved to approve the minutes of April 17, 2002
(Support: R. Johnson) and the motion carried unanimously.

IV. AUDIENCE PARTICIPATION

Pat Grimes, 802 Dwight – was in attendance to address the revocation of the Special Use Permit in Item 1 of Old Business. He referred to his son, Ryan, who will be attending East Middle School next year. Mr. Grimes and his wife did a tour of the school to become acquainted and were quite concerned on what was outside. Not just what could be seen, but the debris and refuse that had made its way to the parking lot, and the fact that the principal maintains that this is not an isolated occurrence.

He submitted photographs taken by his wife last Sunday and also letters from approximately 60 people in the area who have students in the school and had a concern for that neighborhood. They feel that this business is a danger to the health and welfare of the children and staff who live around there. They are asking that this Special Use Permit be revoked.

Ms. Stewart, Owner of 525 Tyler – stated that she has never had any problems with Chris Kind, however, she has had many problems with the City. What Mr. Kind has been doing there has never affected her business, it has been the City that has caused her problems. She thinks the reason he has problems is not because of his business but because he hired minorities. Her problem is the City. She is a minority person and everyone who works for her are minorities and the problem was endless

until she moved from there. She does not think that what is going on at Chris' property is the problem – she does think that the City of Ypsilanti is the problem.

Barry LaRue, 302 Oak – stated that being on City Council, he has received many calls and e-mails from people who have children at East Middle School and people who will potentially have children at East Middle School. Since they are very concerned about this issue, he felt compelled to come before the board to share the fact that people are upset with the blight and material blowing into the parking lot damaging automobiles. Also, the potential for asbestos problems, whether that has been verified or not, the potential is there and comments he has received indicate that other parts of the city do not have to contend with this. For example, West Middle School has a beautiful wooded lot behind the school and is pretty much a natural setting.

On the other hand, East Middle School has basically disgusting industrial activities with children playing out in the athletic field. It is his opinion that there is something wrong with the zoning map that would allow these kinds of activities next to a school. The perception is that many times those kinds of activities happen on the East Side and that the West Side is a more protected area. The parents do not like that perception and would like it changed. They feel that by revoking this Special Use Permit based on violations of the original request would be appropriate. We should be trying to move towards a less industrial use and something less intrusive on the school.

Mary Decamp, 309 Oak - has five children, four of whom have gone through East Middle School. She has a daughter who is a runner and a soccer player at the High School, 9th grade, and she spent most of last spring breathing in heavily the air around East Middle School while running in that neighborhood. East Middle School does not have the luxury of a track like West Middle School and they have to run through the neighborhood. She also played soccer in the adjacent field to this business breathing in the air. Mrs. Decamp has spent a lot of time driving back and forth seeing a lot of industrial debris in the parking lot that you would not want to run over with your car much less your child running over with tennis shoes. She understands that pieces have actually hit the building from the recycling business and the material they are recycling and shredding – asbestos, fiberglass, steel – are asthma possibilities in the 48198 zip code. They also have one of the highest rates of children with asthma in that zip code. She wonders how and why this type of building was allowed and why it is allowed to remain. She is very concerned after comparing East Middle School to West Middle School.

She has another child attending this school for the next three years who will be walking and running through the parking lot. She is not supportive of this business in that location.

Janice Sturveyant, Principal East Middle School – stated that she felt compelled to share with everyone since she is there on a daily basis. She does not personally have anything against the neighbors at 529 Tyler, but she does have concerns that relate to her staff and the students at East Middle School. There has not been as much difficulty this year as last year, however, there have been boxes and scrap materials that have been picked up from the parking lot. Materials have broken windows in their classrooms. She has had her tires damaged as well as six members of her staff having tire damaged by articles from there. She feels it is truly an unsightly area and feels there is probably rodents there also because of the amount of debris. Not even considering that asbestos is probably there and that is another concern.

Bob Doyle, 210 S. Washington – it seems to him that the City has zoning ordinances in place to help ensure compatibility of uses. Beyond that, we have Special Land Use Permits that take into account that there are businesses that are difficult to categorize in a zoning code and perhaps have an unhealthy impact on the community. When a business owner signs on for a Special Land Use Permit, they are essentially signing on to an agreement with the City that states they will use their business in a manner so that they can mitigate the impact of the business on the community and that is what he sees this business as doing.

In Mr. Doyle's career as a landscape architect, he has been involved in approximately twelve Special Land Use Permits representing both owners and himself and it is his opinion that this is a contract with the community that should not be violated unless one wishes to suffer the consequences.

Our old city motto used to be "The City that Works" and he feels we should be proud of that. We are a city that has industrial uses that provide jobs, and there is nothing wrong with that. We are also a city that has standards and it's about time we started making business owners, and property owners, live up to the standard which has been set for them. We are not the doormat for the County. He implored the board to revoke the Special Land Use Permit.

Steve Pierce, 118 S. Washington, Chairman of DDA – wished to speak on two issues, one of which is the general issue of Special Use. At the last month's meeting, there was quite a contentious debate over a Special Use Application for Sobbry's. We came within one vote of having

an abomination approved in a neighborhood and forcing an incompatible use into a neighborhood where people live and work every day. He was really discouraged that we came so close to allowing what the owner of this business clearly stated that he had been operating illegally for over two years, therefore, should be permitted. Mr. Pierce continued that they should not have been permitted.

Here again this evening, we have another Special Use and we have an opportunity to undo the Special Use Permit that was granted several years ago that has clearly not worked. Parents have asked earlier how this happened and how could we have allowed this type of business to operate next to a school. Was this business there before the school and it turns out that it was not. This applicant came before this board and to the residents of the neighborhood, to the people that attend and work at the school as well as the City of Ypsilanti, asking for a Special Use Permit to run a business that would not normally be permitted in this area. As Mr. Doyle stated earlier, when a Special Use Permit is granted, it is a contract that you are going to do things a little differently. Being granted a Special Use Permit allows someone to operate in an area that is not normally allowed but you have to operate at a little higher standard and that is what we have been asking for the last 4-5 years.

At last month's meeting, the applicant stated that if there is ever debris in the parking lot to call him and he would pick it up. It is raising the bar and establishing what we should expect from this owner. The owner should be over there every day ensuring that there is no debris in the parking lot. Mr. Kind categorized it at the last meeting as a "one time deal". They brought in this new chipping machine and it threw a bunch of junk over, therefore, they got rid of it. This is not the case. Mr. Pierce has gone over there in the past month and there has been debris there. One would guess that in the past month the owner has been on extra special behavior because of the threat of revoking his Special Use Permit and yet there is still junk in the parking lot. It goes back to the whole point of the Special Use. The Special Use is to grant permission for a business to operate there that would not be allowed under normal zoning. It is clear that we should not have allowed this to occur. This person has received numerous citations by the Fire Inspector, Building Inspector and yet this person continues to operate this way. We should not foist this on the people who live there and work there and we certainly should not submit our students who attend the school to this form of business. Mr. Pierce realizes that this is a difficult decision but asked for revocation of this Special Use Permit.

V. OLD BUSINESS

1. 529 Tyler Road – Revoke Special Use Permit

Staff report was presented by Nathan Voght who stated that this item was brought before the Planning Commission last month at the request of staff to consider revocation of a Special Land Use Permit that applied to 529 Tyler. This was discussed in length including the issues that were detailed in the April 9th report. The Fire Marshal spoke about the fire code violations that have occurred and are occurring on the site, and generally we had a comprehensive overview of the current status of the site in relation to the zoning and Site Plan that was approved for the site.

There were a couple of questions that came up that Mr. Voght tried to address in the ensuing month. The two items that were raised that provided some doubt for the Planning Commission to table this item were:

- The masonry buffer wall that is shown on the site plan that was supposed to be constructed on the western property boundary. The applicant questioned that requirement and felt that this had actually been waived by the construction of a storage building, which essentially does provide a buffer.
- The other item is the retention pond. The board may recall that this pond appears to be level because there are vehicles parked on top of it. However, the pond was originally constructed at a 6:1 slope, which theoretically would not allow parking of any vehicles on top of it. Staff brought up this issue because there was some questions from an engineering standpoint if this retention pond was still functioning based on what we know about it.

He tried to address these two questions by doing further research on the files. We know that in both the 1997 site plan and the amended 1998 site plan that a 15' long, 6' high masonry wall was indicated on the plan. He has both plans available for board members to review. If it is on the plan, it was approved and required. If there was some Site Plan amendment made by the Planning Commission or authorized by the City Planner, an amended site plan would have been required and should have been submitted and approved. The approved Site Plan indicates this buffer. Therefore, the record and evidence the City has is the approved Site Plans. The other evidence we have is the minutes of the approval in 1998 of the revised plan. He passed out copies of these minutes to the Board noting that there is no mention of any waiver or amendments of that buffer wall. If something happened at the Building Department level when a permit was being pulled, there should have been a record of it.

An amended site plan should have been filed and we would evidence in our file of this. Based on the research we have done, this buffer was a requirement.

With regard to the retention pond, if you look at the 1998 revised site plan, it does show a smaller retention pond area compared with the 1997 approved Site Plan. When you look at the calculations on the site plan for 1998, it details the capacity of the retention pond, the slope of the retention pond and the number of hours of rain it could take at 100 years of storm. The slope of this pond is 6:1. If you look at the slope, containers or vehicles could not be parked on it since it would probably drag on the bottom. Mr. Voght contends that the pond, as it is today, has not been maintained in accordance with the plan, it does not have the capacity that it did when it was originally constructed and so it is not today, serving what it was intended to serve. Further, long-term parking of storage containers or other vehicles was never indicated in the 1998 approved Site Plan.

These are the two issues that have been addressed and what we have done in our May 9th letter is to summarize the overall compliance of the property with the Special Use Conditions and the Site Plan.

Mr. Voght reviewed the ten Special Use Conditions listed below and found seven out of the 10 to be out of compliance.

(the following is excerpted from a May 9, 2002 staff memo to Planning Commission)

COMPLIANCE - SPECIAL USE CONDITIONS:

- 1) *That site management regarding drainage issues be addressed and approved by the Building Inspection Supervisor.*

Compliance? **No.** Harry Hutchinson, Building Inspection Supervisor in 1997, approved the drainage plan at that time. Although it is possible that the retention pond was constructed properly initially, it is clear that the required 6:1 slopes are not present currently. This is concluded due to storage containers located/parked on top of the pond. Therefore, current conditions are not consistent with the 1998 approved Site Plan. We also contacted our consulting engineer, Jim Bliskey, regarding the feasibility of placing gravel in a retention pond. Mr. Bliskey indicated that this arrangement is not acceptable because it

reduces the capacity of the pond to hold stormwater discharge and prevents proper infiltration of water at the designed rate.

- 2) *That screening be provided on the west and south boundaries of the property. All outdoor storage areas for junk yards shall be screened by a six (6) to eight (8) foot obscuring wall constructed of masonry, concrete or other similar material.*

Compliance? **No.** There were questions regarding this requirement. The approved 1997 and 1998 site plans both called for a 15 ft. long, six (6) foot high masonry wall along the west property boundary. This wall was never constructed. There is no indication of a wall on the southern property line.

- 3) *That a buffer be provided on the west property line between subject property and the Tyler Court Storage Facility.*

Compliance? **No.** As mentioned, it is clear that a masonry wall was required, proposed, and approved to be located on the western property line, which was never constructed. The owner was given notice in numerous instances of this deficiency, but never addressed the problem.

- 4) *That proper access to all parts of the storage areas shall be provided for fire and emergency services, as required by the City of Ypsilanti Building Code and BOCA code and that the entire site be approved by the Fire Marshall.*

Compliance? **No.** As evidenced by numerous Fire Code violations, and presented by Jon Ichesco, Fire Marshall, during the April 17, 2002 meeting, proper access has consistently been prevented by material, mobile homes, and other debris on site.

- 5) *That there be no sales activity.*

Compliance? **Yes.** We do not have any records that indicate this condition has been violated.

- 6) *That inventory management be conducted so that no mobile home remains on the lot for longer than 180 days.*

Compliance? **Unknown.** The applicant has not complied with this condition in the past, however, we have no indication that currently it is a problem.

- 7) *That removal of the automobiles currently on the property be removed within thirty (30) days of approval.*

Compliance? **Yes.** It is our understanding that all vehicles on site were removed.

- 8) *That an annual inspection be conducted to assure compliance with all of the conditions. (1998 revised site plan approval required quarterly inspections).*

Compliance? **No.** Frequent inspections were made from February, 1997 to September, 1999. It is unclear whether quarterly inspections occurred between September, 1999 and March, 2001. Site inspections continued after March, 2001. All site inspections revealed that the site was not in compliance with Special Use conditions and Site Plan approval.

- 9) *That a minimum setback of fifty (50) feet shall be maintained between the front property line and the portion of the property on which junk materials are placed or stored outdoor storage areas shall also conform to all other setback requirements for principal buildings.*

Compliance? **No.** A manufactured home was illegally located on the site to the south of the structure labeled "office bldg" on the 1998 Site Plan. We understand that this building is used as an office, while no land use, building, electrical, plumbing, etc. permits were issued for the structure. It is also in violation of the 25 ft. front yard setback for the M2, Medium Industrial District. Mr. Kind indicated during the April 17, 2002 meeting that approvals have been submitted for this structure. However, according to Charles Boulard, Building Official, the Building Department has not received any permits for this structure. Mr. Boulard further indicated that this structure is a HUD home, and could never be used as a commercial/office structure.

- 10) *All roads, driveways, parking lots, and loading and unloading areas shall be paved or treated in a manner approved by City Building Department so as to confine any wind-borne dust to within the boundaries of the site.*

Compliance? **No.** According to aerial photographs (attached) it appears that paving was not provided in accordance with the

1998 approved Site Plan. According to Jon Ichesco, Fire Marshal, a strip of paving extends from the entry road along the storage building on the western property boundary. However, due to abundant materials on site, it is difficult to discern that actual extent of paving.

(end of Excerpt from May 9, 2002 memo)

With regard to Special Use Conditions, staff feels that compliance has never been achieved, proper notice was given over the last four or five years to the owner with no results. Therefore, it our opinion that we have come to an end of our remedies and that is why we are asking for this revocation.

Voght reviewed the Site Plan deficiencies, which he feels are even more important because the authorization that the Planning Commission has to revoke a Special Use Permit does specifically list where construction is not in accordance with the approved plan. However, staff also feels that violation of the Special Use Conditions are also just cause for revoking a permit even although the language does not specifically mention it. The nine things staff noted that were not in compliance with the approved Site Plan of 1998 are:

- 1) *Manufactured home used as an office without Site Plan approval, Building Department approval. Office encroaches on front setback, has no Certificate of Occupancy and is not suitable for commercial/office use, according to the Building Official.*
- 2) *Masonry wall/buffer never constructed along the western property boundary as shown on both 1997 and 1998 site plans, and in the Special Use conditions.*

If the intent was not to construct that then a revised site plan should have been submitted.

- 3) *Storage containers parked/located on top of retention pond*

This is a problem for two reasons, it decreases the capacity of the pond to hold water and is not in compliance with the 1998 site plan. There was no parking of any vehicle shown on the top of the retention pond. It is his opinion that if there had been, the board would have questioned it.

- 4) *The retention pond filled with gravel land slopes not maintained (unconfirmed by inspection)*

Voght contends that if vehicles are pulled on top of this, it does not have a 6:1 slope. If you see a 6:1 slope on a retention pond, vehicles would not be able to be on the pond.

- 5&6) *Manufactured homes stored in locations not approved in 1998 site plan*

The plan that was presented to the board showed a certain arrangement of the site. The aerial photos that were attached to this memo of May 9th clearly show that the arrangement and organization – i.e. fire lanes – have never been maintained. The expectation was that there would be bins placed throughout the site and the material would be put in the bins and then taken away instead of put in large piles. This was certainly what the City Planner would have expected at that time.

- 7) *Material/debris on site stored in unapproved locations that violate fire code regulations.*

They do not allow adequate access

- 8) *The 30 ft x 100 ft. storage building was to be constructed with a shed roof with slope towards the east, to minimize drainage on adjacent property.*

This was a note on both the 1997 and 1998 site plan. No site should be developed that causes any draining on an adjacent neighbor. There are complaints filed from the adjacent owner of the storage buildings complaining about drainage issues coming from that building.

- 9) *Six (6) landscape plantings not installed on the north side of 30 ft. x 100 ft. storage building.*

There was not supposed to be debris or material there. The pictures Voght took in February showed that the north side of that building completely covered with debris. There is no landscaping or plantings.

Voght added that Mr. Kind had stated that at the end of every day, he organized the site in compliance with the site plan, which Voght finds difficult to believe. Voght took another look at the aerial photos from 1998, 2000 and 2001 and he feels that this is an impossibility given the number of manufactured homes on the site unless they were stacked

three high to get them in the fashion that was approved on the 1998 site plan.

Voght hopes that all of this information clarifies the remaining questions board had last month. He passed copies of a letter submitted by Mr. Kind this evening which is his response to Voght's May 9th letter. Staff's recommendation is to revoke the Special Use Permit. Voght asked if a motion is made, that the complete language of Section 122.170 be included in the record of the motion.

E. Turner-Jones referred to the minutes of 1998 in which Alice Burg, former City Planner stated that Mr. Kind was out of the compliance at that time and asked Voght to confirm this. Voght responded that between the 1997 approval and November 1998 there had been many violations and it was clear at that time that the site was not in compliance. The intent in 1998 was to have them complete a revised site plan to address some of the problems. Turner-Jones also referred to paving and Voght responded to that issue that the Fire Marshal had indicated paving had only been installed in front of the new storage building.

Chris Kind, Owner – 529 Tyler – stated that Voght continues to say “he thinks, he thinks”. Kind continued that it is his opinion that they should have sent inspectors to the property and checked for concrete and asphalt. He brought pictures he took that day, which he says shows concrete. Concrete has been put in – asphalt has been put in, the new storage building he installed has no room for a 15 ft buffer. When the inspector came out and looked at the building, the building was brought up to the length of the adjacent storage building so there was no room for a 15 ft wall which they did not need. He brought the plans in for the building that was built – the city looked at them, had them put in gutters and downspouts and drains to the downspouts on the west side which ran into the detention pond. Everything Voght is saying that he is not in compliance with has been done. They planted trees in the back and they keep dying – does not know if it's the ground but they are there. There is one living out of the six planted. The roads are maintained – they have 6-8 mobile homes on the lot and that's what they generally have there. There are a few times when they got slammed with a bunch of them but they took care of that and hauled them to the dump. They have approximately 200 landfill tickets where they take these tickets to the dump and dispose of them.

He is hearing different stories on everything and also comments from the people in the audience. One time he had a problem with stuff flying over the fence and then he took that machine out. They had it for three days

and then it was gone. The Fire Marshal told him about stuff over the fence, he talked to the principal, stopped the job, took the machine out and it has never been back since. This was the only time he ever had a complaint, except parking in the turnaround area. For instance, the other day two state cars parked there and if the Fire Marshal had come down he probably would have received a citation. There are no signs and he cannot run out there every time someone parks there and tell them they can't. Fred Kirkland from the State of Michigan did an asbestos check and as far as he could see, he could find no asbestos but he took samples and will check them in his lab and get a result in three weeks. Stan Idziak, MDEQ, inspects his yard every month and says that he can be called at any time and he would tell us they are not out of compliance with the State of Michigan in any way. Idziak was at the yard at the same time as Fred Kirkland and they do not see what the problem is. Mr. Idziak has checked his yard every month and Mr. Kind has never had a complaint, never had a citation, never had to go to court. This is the only time in five years that he has had any problems since he had coverage on the news and newspaper. All that stuff happened months before the newspaper and TV people came down. Never had any problems. Only problems he ever had were in the turnaround area. Never had any citations except for the time he threw stuff over the fence. He went to District Court, paid his fine and everything was fine. Never had another problem – never had any more citations. Nobody has ever come to his yard and complained about anything. They are complaining now – they should have come and seen him. Five years ago, four years ago, three years ago, two years – never had any complaints from anybody and now he hears all these stories now.

People say there is stuff out there every day. Mr. Kirkland was up there today and said he has not seen any nails, any pieces of wood, no wood chips, no garbage on the property. He's a state official so can't lie.

Kind stated that he was upset and that all this is stuff is untrue – he never had any problems except for the last 3-4 months where someone said in the newspaper article that they had seen rats – he has never ever seen rats. His building is right – Harry Hutchison came out and inspected everything when they did the job and he never had any problems. His retention pond is stone not gravel. He has an engineer that designed it and he is in the audience. He has never had any flooding and the neighbors have never complained. No one has ever come and told him their kids can't breathe. The only problem he had was a year ago with the grinder and there might have been a little dust then. Everything is done by hand.

Ed Kubiske, Engineer of Plans – with regard to the retention pond, the parcel of ground is the lowest piece of ground for quite an area. It's an old gravel pit. The retention pond is not as was originally submitted but if anyone is to suffer from that lack of adequacy, it is to be Mr. Kind all by himself because there is nobody within 10 ft of him in elevation. He heard the word "gravel" mentioned in the pond – it is 6A stone, which is large stone that allows the silt to have a way of filtering through some material. He feels the important thing to him is that no one else but Mr. Kind would be the recipient of any water that would not be able to be contained in the retention pond. The 15 ft wall that was mentioned is an impossibility in that the two buildings now overlap. He suggested to Mr. Kind today that what he simply needs is about a two block spacer between the buildings to make sure that no water from the pond (should it flood) would go into the neighbor's property in the storage yard but it won't go anywhere else. The storage yard under present conditions, in a very severe prolonged rain, **might** get some water but if they put block up a couple of feet, it won't get any water.

Chris Kind – stated that the pond isn't level like Voght says it is. They can park vehicles on it. He said he would like to take staff there right now and show him. There is no water in that pond and it has been raining for days. There is no mud in his yard. All the water goes to the pond and drains. It is not flat like Voght says it is – there is a dip and gradually slopes down. There is 2-3 ft difference from his concrete to the pond that is stone and not gravel, which Voght never sees. He does not understand Voght saying "he thinks" since the city is full of inspectors and engineers. If he is out of compliance, he'll fix it. He has spent \$60,000 in concrete, \$20,000 in asphalt, \$75,000 in a building, he has planted trees, he has put a pond in that cost \$25,000. He does not understand what more the board wants.

Nathan Voght responded to Mr. Kind's comments by stating that the asbestos was nothing that the City threw in the headlines. This came from a group of individuals, not from the City. Not once did Mr. Voght mention asbestos in his report. The asbestos is not the issue. As far as Site Plan compliance and Special Use compliance is concerned, asbestos can be there or not, it has no bearing. Regarding news coverage – look at the record, the violations that staff noted, inspections that have been made, letters sent to the owner going back to 1997. The news coverage is just a by-product of the letter regarding the asbestos issue that was sent by a group of individuals, not by the City. To further suggest that the City is doing this because of news coverage is an insult. Voght did his inspection in late January long before news coverage hit any news media. Regarding the drainage, Voght looked at the Site Plan and noted that it is

fairly level between Tyler Storage to the west and the site to the east. If this would overflow, since it has not been maintained to the capacity that it is supposed to be, there certainly would be an impact to the west. There is a building right on the property line at the edge of the retention pond, therefore, it would not just be Mr. Kind who would suffer. The pond itself was supposed to be designed with a 5 ft elevation difference between the top and bottom. If Mr. Kind is saying there is 2-3 ft, this would confirm what Voght believes is true about that pond.

The last issue Voght addressed is the scale of a 6:1 drawing of a retention pond. He feels it is obvious from the drawing that you could not park a 20 ft plus container without dragging it on the bottom, if it has been maintained and installed in accordance with the approved plan. Further, the storage of vehicles or storage containers on top of the retention pond was never shown on the 1998 approved Site Plan.

Some discussion was held between Ed Kubiske and Voght on the vertical and horizontal on a 6:1 slope. Kubiske stated that this could be driven on to which Voght disagreed.

R. Miller referred to the ten items of Special Use conditions compliance issues, three of which may or may not have been complied with, which leaves seven that have definitely not been. Also, there are nine items indicating construction of the site is not in compliance with the approved Site Plan. This has been going on since some time in 1997 and by this time, neither of these lists should exist – five years is a long time to comply. It is his opinion that this is a total disregard for the system.

R. Johnson stated that at last month's meeting, the Fire Inspector discussed a number of complaints. There has been a long history of complaints with documentation. It goes back many years and we have to go with who has the best documentation. There have been ongoing violations, not just this year, but 2001, 2000, 1999, 1998 and 1997.

F. Enneking stated that we would be setting a precedent if we were to overlook this history of violations. These violations have been ongoing indefinitely and Mr. Kind should be in compliance by now. It is called a Special Use Permit for a reason.

R. Miller moved to revoke the Special Use Permit granted on February 19, 1997 for 529 Tyler Road in accordance with Section 122-170 of the Zoning Ordinance which states "Approval of a special land use permit may be revoked by the planning commission if construction is not in conformance with the approved plans. In such case, the issue shall be placed on the

agenda of the planning commission for consideration. Written notice shall be given to the applicant not less than five days prior to the meeting. The applicant shall be given the opportunity to present information to the planning commission and answer questions. The planning commission may revoke the special use permit if it finds that a violation exists and has not been remedied prior to the meeting." This action is based on multiple Fire Code, Building Code, Zoning Ordinance, Special Use conditions violations, as summarized in the Community and Economic Development Department's April 9, 2002 staff report and clarified in a May 9, 2002 memo to the Planning Commission from staff. This revocation is also based on the immediate threat that the use of the site has posed to surrounding properties and persons. We hereby order the owner to cease and desist all further activities related to the operation including: delivery of manufactured homes to the site, disassembling, sorting, and recycling manufactured homes and similar activities. The exception to this shall be those activities associated with the removal of material, debris, and whole or partial manufactured homes on the site. The owner shall have 45 days of this date to remove all such materials, debris and manufactured homes from the site. The motion was supported by R. Johnson. A roll call vote was taken and carried unanimously.

2. Lucille's and Cover Letter regarding landscaping/fencing

Nathan Voght brings this item back before the Planning Commission because a couple of months ago this site plan was conditionally approved as an expansion of a funeral home at 411 S. Adams. Voght has been working with D. MacMullan, Architect, who has been revising the plans. There were some questions on the architectural elevations, which they have revised and they have been included in the packet for board members. Voght continued that there are a couple of outstanding issues regarding the site plan on the possibility of angle parking to provide a continuous fence buffer on the east and south property lines. There was also a question about improving the adjacent lot for the church to current standards and some minor things about the dimensions of the parking spaces and calculation for overall site landscaping.

One of the issues that Voght and MacMullan have wrestled with is the fence on the south and east property line. Lucille's had proposed a fence that was discontinuous. It stopped where there were trees rather than taking the trees out so there was some spaces. It is the feeling of staff that we would prefer a continuous fence, therefore, we suggested that angle parking could accommodate that. Mr. MacMullan provided a May 2, 2002 memo in which he explained that they would rather not go to the angle parking but prefer the 90° parking because of the visitors on the

site. They are limited with space on the eastern and southern boundaries so they still want to propose the broken fence. Voght felt that this should be a decision made by the Planning Commission

The other issue is that our Zoning Ordinance requires a low masonry wall between the parking lot and the right-of-way and staff had suggested a brick wall with a limestone cap or something to that effect. For cost reasons and architectural/aesthetic reasons, they would still like to install a row of yews.

D. MacMullan, Architect – would like to stay with the 90° parking because this is an area that is not used on a regular basis. They are quite tight to the property line so would still prefer the landscaping, not necessarily yews. If absolutely necessary, they will show a low masonry wall in front of the parking area, however, he feels that since there will be no masonry on the building, the wall will be a statement all by itself.

Voght responded that this meeting is informal and that no action is necessary since the site plan has already been approved. It was approved with Voght to administratively review the changes. Voght brought this before the board to get their informal input and their agreement.

R. Johnson agreed with the angle parking but wondered what the affect would be on number of spaces. Voght responded that it would reduce the spaces by two by angling but this was not an issue as ample parking is provided. Adams asked if the fence could be staggered and MacMullan responded in the affirmative. After further discussion, Voght proposed that we look at the possibility of a continuous fence since MacMullan indicated that the owners would not be adverse to this. Voght asked about the knee wall to the west side of the parking lot along the front. He had suggested this, and it is required, but they could do alternative plantings. R. Johnson stated that he likes the plants since this is a residential setting and since there would be no brick on the building itself. Miller was concerned with snow removal and the possibility of hitting the wall, which would possibly not get fixed and would look worse.

MacMullan agreed to meet with Voght to get a resolution to these issues. All of the board members were in agreement for Voght and MacMullan to resolve this administratively. Frank Enneking abstained from comment since he had a conflict of interest.

Clark was pleased with how the board and applicant had worked together to come up with a satisfactory solution that works for both parties.

Adams recommended that the City get copies of up-to-date revised plans of approval for the record so there are no problems in the future. Voght assured him that this would be done.

VI. NEW BUSINESS

1. 59 Ecorse – Special Use and Site Plan Approval, heating and cooling business

Voght stated that the applicant, Al Walters, is attempting to relocate from the Water Street location to this Ecorse Road location. A copy of the site plan by Cooper Design has been distributed to board members. The site is on the east side of Ecorse and it does border the Township, with Emerick on the back and Ecorse on the front of the property. The off-street parking occurs toward Ecorse. It is zoned CI, Commercial-Industrial and the proposed use is not well defined in the ordinance but the ordinance does provide for assembly of metal for pre-manufactured material.

In terms of land use, the whole area is either area commercial or industrial and this was summarized in the staff report.

In general, staff does feel that this use meets the required criteria and Voght listed all of these requirements adding comments indicating that staff has no opposition and agrees that this is appropriate for the area. We have reviewed the area, width and height setbacks, but again, this is an existing building so this is just a review. The setback to the south is actually zero feet, when 3 ft would actually be required. The height is not over 30 ft.

Staff did review site access and circulation. The site is accessed from Ecorse Road in the front and Emerick Street in the rear. Turning movements are somewhat problematic in the parking lot, however, the two separate existing access drives provide maximum efficiency. Given that the parking lot layout is existing, internal circulation is acceptable. We are willing to look at this as an existing condition considering they are attempting to comply as much as possible with our landscaping standards and they have actually made an improvement of some of the circulation. Two items that would have to be addressed are: 1) Any work within the Ecorse Road right-of-way will have to be approved by the City of Ypsilanti Department of Public Works and 2) The Special Use conditions should include that company vehicles will not be allowed to be stored or parked within the Emerick Street right-of-way.

In terms of off-street parking, staff looked at this use as comparable to that of furniture/appliances, showrooms of a plumber, decorator, electrician or similar trade and other similar uses. Nine spaces are required and nine spaces are provided. The parking spaces are shown at 10 ft x 18 ft, which reflects the existing non-conforming dimensions of the off-street parking area. The slightly reduced length of the spaces is also a result of new landscaping areas near the building. He differentiated this site from 301 W. Cross, which was an addition to the building and comes under greater scrutiny, and therefore required variances. In this case, no building addition is proposed, so existing non-conforming situations are allowed to continue without variances being required. Voght recommended that wheel stops must be provided to prevent vehicle encroachment on landscaped areas, particularly spaces 2 through 6.

With the landscaping provided, staff feels that they have gone a long way to try to comply with our current standards. There were a number of errors in the plans and Voght has discussed these with Mr. Gary Cooper who is doing the design. He has faxed over changes and will be providing revised plans. Staff will ensure that the landscaping works. Voght had comments about the irrigation, suggesting that when the lot has been paved, that they install underground irrigation at that time. He will ensure that this will be included as a condition for future reference.

Voght listed items that need to be addressed: 1) The landscape legend and key is incomplete or incorrect. 2) The existing median/greenbelt should be landscaped with one or two street trees, which will require a Department of Public Works Permit. 3) Foundation landscaping must be addressed including ornamental trees/shrubs. 4) Staff recommends the Planning Commission waive underground irrigation requirements with the condition that it be installed when the site is repaved. 5) The applicant should consider an alternate planting from the Dense Yew proposed, if possible.

We need a sign permit if any new signing is proposed. No new lighting is proposed and he reviewed the distinction between a new site and existing.

Staff recommends that the Special Use Permit be approved based on meeting the required criteria of special uses. He does suggest three conditions, which he listed. On Site Plan Review, he recommended eight comments, which he feels are fairly minor in nature and could be reviewed administratively. He recommends if they approve the Special Use, that the site plan be approved also with the conditions to be addressed and reviewed by our department. He passed out a statement

from Orchard, Hiltz & McCliment (OHM) stating that formal engineering review of this plan is not required. Jim Bliskey of OHM gave us a memo in that regard.

John Adams asked about the trash and E. Walters responded that he would like to use a dumpster. There is one next door or there is room on the side of the building. If it creates a problem as far as space is concerned, they can keep it inside

E. Turner-Jones moved to open the public portion of the hearing (Support: R. Miller) and the motion carried unanimously.

E. Walters, applicant – stated that the cost of this building is significantly higher than what they will get for the existing building on Water Street. He would like to keep their relocation costs as low as possible. He does not anticipate making any changes to the outside of the building. The building has been vacant for many months.

Adams asked where the dumpster would be located and Walters responded that he feels there is enough room on the north side, accessed from Emerick. Adams asked if it would be enclosed and Walters responded that it would have to have a block enclosure, however, he does not feel that there is enough room. Adams added that it would be sitting in the right-of-way of Emerick and Voght stated that this would not be allowed.

After further discussion the location of the dumpster, Voght advised Walters that he may need a variance because of setbacks. He advised Walters not to include any dumpster on the site plan. If it needs to be added at a later date, it could be handled as a minor site plan amendment and be done administratively to which Walters agreed.

Foundations landscaping was addressed and Walters stated that the Planning Commission has to be mindful of the necessity for the adjacent owner to have access for painting when the trees are fully grown. Voght added that the landscape plan needs to be revised since it is not accurate. Adams asked Walters if his concern was with the shrubbery or ash trees and Walters responded that he is concerned about both since he does not want to put in all the plantings and then have to remove them if the adjacent owner wants to paint his building. Adams recommended removing the trees and only having shrubs, which would then allow enough room between the buildings for maintenance. Voght suggested that Walters contact the other owner to get his/her opinion on this and we can go from there.

Walters had a concern about the parking on the right-of-way at the back. He does not see how this will affect anything since they do not leave their trucks out at night. They have tools on them, which he feels would be gone by the morning. He would like to park their trucks during the day to load and unload. Voght stated that he could park there during the day, the intention for this is not to allow parking for a long period of time or overnight. Adams referred to the loading/unloading in the right-of-way indicating that he had a concern with this, however, Voght explained that since this is an existing condition there is not much we can do about.

G. Clark moved to close the public hearing (Support: E. Turner-Jones) and the motion carried unanimously.

Adams asked if the lighting is in compliance with our ordinance and Voght responded that he had been out there that day and did not specifically look for or notice any. He asked Walters who stated that the building has a mansard face, which has canned lights directed downward. In the back there are two mercury lights, which do not impede on anyone else. Voght noted that the lighting is listed on the site plan. R. Johnson asked about hours and Walters responded that the hours would be 8-5 p.m. Monday thru Friday including Saturday mornings in the winter only.

E. Turner-Jones moved to approve the Special Use Permit for 59 Ecorse Road to operate a heating and air conditioning business. This approval is based on the findings that the proposed use meets all the required criteria of Section 122-165 including compatibility with surrounding land uses, appropriate location in terms of site access, traffic impacts, and use intensity, and the non-residential use is surrounded by similar non-residential uses. This approval is further made with following Special Use conditions:

- 1) Underground irrigation shall be provided and extended to all front landscaped areas when and if the parking lot is repaved.
- 2) Company, delivery, or other vehicles shall not be stored within the Emerick Street right-of-way.
- 3) Outdoor sales or display is prohibited.

The motion was supported by G. Clark and a roll call vote was taken and carried unanimously.

R. Johnson moved to approve the Site Plan for 59 Ecorse Road with the following conditions, to be reviewed administratively by staff:

- 1) Any work within the Ecorse Road right-of-way will have to be approved by the City of Ypsilanti Department of Public Works.
- 2) Wheel stops must be provided for spaces 2 through 6 to prevent vehicle encroachment into landscaped areas.
- 3) The landscape legend and key is incomplete or incorrect.
- 4) The existing median/greenbelt should be landscaped with one or two street trees, which will require a Department of Public Works Permit.
- 5) Foundation landscaping must be addressed including ornamental trees/shrubs.
- 6) Planning Commission will waive the underground irrigation requirements with the condition that it be installed when the site is repaved.
- 7) The applicant should consider an alternate planting from the Dense Yew proposed, if possible.
- 8) Submit a sign permit for any proposed signage on site
- 9) Agree upon the location of the dumpster and any variances that is required.
- 10) Loading area should be shown on site plan.

The motion was supported by R. Miller and a roll call vote was taken and carried unanimously.

2. 105, 111, 119, 121, 125 N. Huron – Master Plan Amendment Request

Voght presented the staff report stating that this item was brought before the board last month as a request from Mr. John Bredell who recently purchased 119 N. Huron. It is in a strange location in terms of our master plan and zoning map and for him to use it as an office really required a rezoning. The Master Plan shows the property as downtown zoning and these properties are much more suitable for a resident/office district, which is similar to the east side.

Mr. Bredell is willing to work with us and go through a Master Plan Amendment and then a rezoning since he will require this to be RO to enable him to have an office there. Mr. Bredell initiated this application, we amplified the scope of the amendment last month to include all the properties from Washtenaw down to Pearl. Voght distributed a map of the exact configuration that we are proposing to change since he had received some information from the Assessing Department about 105 N. Huron, which actually had a lot split. Voght did re-notice this for a public hearing since this is required including all of the properties shown on the map. He added that staff had received a letter from Jennifer Goulet,

Director of the Downtown Development Authority in which she stated that they had no objections. They do want us to consider including 108 N. Huron since this is a house in the B3 district. Voght is recommending that this could be included at a future date.

R. Miller moved to open the public portion of the hearing (Support: E. Turner-Jones) and the motion carried unanimously.

Steve Pierce, 118 S. Washington – Chairperson, DDA – stated that the DDA is pleased that the applicant actually thought this through looking at the surrounding properties as well as his own. The DDA met last month during which time this issue was discussed. They are very supportive of this request.

John Bredell, 119 N. Huron – stated that at last month's meeting, Commissioner Adams had a concern about the parking. Bredell spoke with Jennifer Goulet, DDA Director who has agreed to reserve three spots at the Riverside Arts Center.

Voght added that Mr. Davis had requested him to contact all the property owners, which he did. He contacted everyone except the Health Center. He left a message but has had no response. He has had no objections from anyone else, in fact, they felt it made sense. L. Knibbe stated that she was happy we were making this change.

R. Miller moved to close the public portion of the hearing (Support: R. Johnson) and the motion carried unanimously.

Adams asked if there was a requirement for notification on a rezoning and Voght responded that this is a Master Plan Update, not a rezoning. However, notification is required on a Master Plan update for anyone within 300 ft and also publication in the newspaper and this has all been done. *(note that this was researched further by staff subsequent to this meeting and a May 17, 2002 memo was sent to the Planning Commission clarifying that Master Plan amendments DO NOT require surrounding property owner notification)*

R. Johnson moved to amend the Master Plan for the following properties: 105, 111, 119, 121 & 125 N. Huron, 103-107 Washtenaw and 101 Washtenaw as listed on the map (attached) to change the Master Plan from either High Density Residential and CBD Commercial to all Mixed Residential Commercial (Support: R. Miller). A roll call vote was taken and carried unanimously.

3. 105, 111, 119, 121, 125 N. Huron – Rezoning to RO, Resident and Office

Voght stated we should hold a public hearing for this item but what he realized after speaking with the Assessor and looking more closely at this item, he did not include the Washtenaw addresses. He will have to re-notice the rezoning the same as was done for the Master Plan. He will add the addresses on Washtenaw into the re-zoning of RO just as was done for the Master Plan. He spoke with the applicant and he has no problems with the slight delay in the rezoning but we will have to hold another public hearing next month after it has been noticed correctly to include the Washtenaw addresses.

R. Miller moved to open the public portion of the hearing (Support: G. Clark) and the motion carried unanimously.

Since there was no comment, G. Clark moved to close the public portion of the hearing (Support: R. Miller) and the motion carried unanimously.

R. Miller moved to table this item until notification of rezoning was published in the newspaper (Support: E. Turner-Jones) and the motion carried unanimously.

4. E. Turner-Jones asked about the use of local contractors in the Water Street Project. Voght responded that he will ask D. Stollman of Biltmore Properties and get back with her.

VII. ADJOURNMENT

Since there was no further business, R. Johnson moved to adjourn the meeting (Support: E. Turner-Jones) and the motion carried unanimously. The meeting adjourned at 9:50 p.m.

