

**PLANNING COMMISSION
MEETING MINUTES
OCTOBER 16, 2002**

I. CALL TO ORDER

The meeting was called to order at 7:30 p.m.

II. ROLL CALL

Present: F. Davis, A. Malmer, F. Enneking, R. Miller
G. Clark, R. Johnson

Absent: J. Adams (excused) E. Turner-Jones

Staff: N. Voght, Planner
N. Schuette, Secretary

III. APPROVAL OF MINUTES – September 18, 2002

Malmer moved to approve the minutes of September 18, 2002 (Support: R. Miller) and the motion carried unanimously.

IV. AUDIENCE PARTICIPATION

None

F. Davis announced that the item of Nextel Wireless Communication was removed from the agenda because the applicant had requested a postponement.

V. OLD BUSINESS

1. 731 West Michigan Avenue

R. Miller moved to remove this item from the table (Support: R. Johnson) and the motion carried unanimously.

N. Voght presented the staff report giving a brief recap of the issue that was on last month's agenda. He indicated that this item had been re-noticed to rezone the two West Ainsworth properties from B2 to R1, instead of RC as originally proposed, with the remainder of the properties concerned going from B2 to RC. He would like to give the public an opportunity for additional comments.

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

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

F. Davis reiterated that there had been significant discussion at last month's meeting on this issue with the decision to change the two lots on W. Ainsworth and re-notify.

Malmer moved to recommend to City Council the rezoning of 615 W. Michigan, 701 W. Michigan, 703 W. Michigan, 707 W. Michigan, 719 W. Michigan, 723 W. Michigan, 727 W. Michigan, 731 W. Michigan and 801 W. Michigan from B2 to RC, Residential/Commercial and 5 W. Ainsworth and 6 W. Ainsworth from B2 to R1 Single Family Residential. The reason for the rezoning is that this complies with the Master Plan (Support: F. Enneking). A roll call vote was taken and carried unanimously.

2. 306-312 N. River Rezoning

R. Miller moved to remove this item from the table (Support: A. Malmer) and the motion carried unanimously.

N. Voght presented the staff reported stating that we modified the legal notice to include 306 N. River from WS Workshop Studio to B3 Central Business District as requested by the owner and 232 N. River to go from WS Workshop Studio to R3 Multiple-Family Residential.

Voght contacted the father of the owner of 232 N. River, Mr. Szumko, who stated that his son is married to a lady in the Air Force and travels with her, however, his father has Power of Attorney. Voght talked to the father and explained the proposed rezoning per the Master Plan as well as faxing him information. Voght informed the father of this meeting giving him the opportunity to add his comments. He had a question about the property behind him on N. Lincoln that was left out of this rezoning. Voght informed him that the owner of this North Lincoln property was not interested in being included in this rezoning. He also had more questions about R3 and B3.

Voght stated that this rezoning is beneficial and is in compliance with our Master Plan and recommends that we go ahead with the rezoning. Voght noted that the father was not in attendance but that he could go before City Council to voice any concerns if he wishes.

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

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

R. Johnson moved that we recommend to City Council the rezoning of 306 N. River, 308 N. River, 310 N. River and 312 N. River from WS Workshop Studio to B3 Central Business District and rezone 232 N. River from WS to R3 Multiple Family Residential. This recommendation is based on the following factors:

- 1) The proposed zoning designation of B3 is consistent with the City of Ypsilanti Master Plan future land use designation for the property of CBD Commercial. The existing uses at 306-312 N. River are also well-suited for the type of "convenient pedestrian shopping experience along a continuous retail frontage" called for on page 68 of the Master Plan.
- 2) The existing uses are permitted uses within the proposed B3 district, with the exception of the Sourdough Bakery, which would become non-conforming until at least 50% of the goods manufactured on the site were sold on the premises.
- 3) The permitted uses within the B3 Zoning District are compatible with surrounding land uses.
- 4) The existing office and commercial uses are permitted within the proposed B3 district, with the exception of Sourdough Bakery, which must sell a minimum of 50% of the goods produced on site from the premises. The owner of this business, Nadine, has been contacted and is not opposed to the change in zoning and use status of the Bakery.
- 5) The proposed boundaries will not result in spot zoning because the subject site is contiguous to the B3 zoning across North River Street and consistent with the Master Plan.

...and also because 232 N. River would fit in better as R3 and it is consistent with the Master Plan (Support: R. Miller). A roll call vote was taken and carried unanimously.

3. College Place/Perrin St. Alley Closure

Malmer moved to remove this item from the table (Support: R. Miller) and the motion carried unanimously.

The staff report was presented by N. Voght, City Planner, who stated that we had a public hearing on this item last month and the request was specifically to close and vacate a portion of the alley that runs between College Place and Perrin Street. There were many comments by the public. To summarize our recommendation on the request, we had many concerns regarding traffic circulation, snow removal, trash pickup, impact on off-street parking for students in this entire block. The board re-directed staff to re-notice this to include everyone in this block between Washtenaw, College Place, Perrin and Pearl, since they were in agreement on the impact on this entire block and this was done.

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

Nicholas Oas, 602 Pearl Street – stated that he is opposed to closure. He has concerns about dumpster access and the fact that parking would not be available. He is strongly opposed to closing the alley.

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

F. Davis stated that this is a difficult issue. Although he has compassion for the danger that is going on at that corner, he has difficulty in recommending closure. G. Clark stated that although everyone made a good case for their position at the last meeting, the inability of access for emergency vehicles and safety concerns are paramount to his recommendation to not close the alley.

F. Davis added that it was his opinion that part of our recommendation to council should be that we make special notice to the fact to see what they can do to add some manner of safety to the residents.

R. Miller moved to recommend to City Council not to close the alley based on the following points. Section 94-291 of the City Code provides a process for reviewing alley vacation requests and standards to be followed (Section 94-271) and this process has been followed so far:

- 1) City Council Motion or a Petition by majority of abutting owners initiates process.
- 2) Planning Commission holds a public hearing.
- 3) Planning Commission makes recommendation to City Council.

Mr. Harry Hutchison of Department of Public Works has concerns about the closure as well as Jon Ichesco, Fire Marshal, who stated that closing

the alley would be in conflict with the BOCA National Fire Protection Code, due to the length of College Place of over 300 ft. and the inability of being able to turn fire trucks around at the southern end of College Place. Another concern is decreasing parking in that area. We would also ask City Council to do further investigation on safety in that area whether it be by signage, speed regulation devices, etc. The motion was supported by A. Malmer. A roll call vote was taken and carried unanimously.

4. 529 Tyler Road

Staff report was presented by N. Voght, City Planner, indicating that this is a request to operate a towing operation. The applicant will be sub-leasing a portion of the property on the site to two other operators. They had previously submitted a site plan, which was reviewed by staff, but because of many deficiencies, the applicants decided to try to address those items with revised plans and then come back this evening ready to discuss the item. Voght did receive a set of revised plans but they were not received in time for him to update his review.

He recommended that we go ahead and hold the public meeting, go through his review and give the applicant an opportunity to speak. After these presentations, Voght recommended that we table this item giving staff an opportunity to review the revised plans and then come back next month with an updated report.

The subject property is approximately 2.2 acres in size and is occupied by an existing 1,500 s.f. office and 3,000 s.f. storage building. The proposed use is considered an unclassified use in the M-2, Medium Industrial District zoning. Unclassified uses are processed as Special Uses in the M-2 district. The current owner was here in May and we have had some issues with him on the operation he maintained on the site. This request is before us because of a change in ownership.

Voght reviewed the surrounding land uses. The primary applicant is American Towing Company who will occupy and use approximately one-third of the site. The other two companies, Lowell and Discount Towing, will be operating out of the remaining two-thirds of the site.

Voght reviewed the standards that apply:

- 1) *The location, scale and intensity of the proposed use shall be compatible with adjacent uses and the zoning of the land.*

In reviewing the Special Use Criteria, based on the information we have, the proposed use could be classified as a pseudo-commercial

use with outdoor storage and tow truck traffic relegating the use to industrial classifications if operated properly, consistently and in accordance with a good site plan. We have some comments on where the vehicles will be stored so that we know if there is a fire lane available at all times. This has been a problem with the current owner because of never knowing if fire trucks could get in there. We also want to know the expected volume of towed vehicles and average duration of storage. We want to be assured that these cars will not sit there indefinitely. Staff is concerned about a 24 hour operation because there are two owner-occupied single family homes in the area. Staff would also like to know if the maximum number of drivers shown on the plan is what is anticipated or is this a starting point?? This is the kind of information we would require up front.

Staff has concerns about the towing yard being visible from the school property, particularly in the winter months. We suggested that the applicant approach the Ypsilanti School District regarding allowing the installation of a privacy fence on the outside of the existing chain link fence located on school property. A row of staggered evergreens may be a more attractive alternative which would reduce visual impacts of the facility.

- 2) *The proposed use shall promote the use of land in a socially and economically desirable manner and shall not be detrimental, hazardous, or disturbing to existing or future neighboring uses, persons, property or public welfare.*

The extent of vehicle storage must be shown on the Site Plan as well as fire lanes. There is a concern about potential release of vehicle fluids on the site and infiltration in the soil and what will be done to minimize infiltration. If the use is operated efficiently and in accordance with the plan, it can be a compatible use in this location but it comes down to how it is operated and the design of the plan.

The proposed use may be disturbing to existing neighboring uses if not operated in accordance with the Site Plan. Access to 525 Tyuler to the southwest is dependant on the access easement from Tyler Road being kept clear of vehicles and debris that might obstruct access. If towed vehicles are not stored properly or in approved locations, the Tyler Road right-of-way could be blocked, preventing emergency vehicle access to certain properties. Staff is concerned that inventory control of towed vehicles will not take place and vehicles will be stored in unapproved and undesirable locations.

- 3) *The proposed special land use shall be designed, constructed, operated and maintained to assure long-term compatibility with surrounding land uses. Consideration shall be given to the placement, bulk, and height of structures; materials used in construction; location and screening of parking areas, driveways, outdoor storage areas, outdoor activity areas, and mechanical equipment; nature of landscaping and fencing; and hours of operation.*

Again, this reiterates previous statements concerning the manner in which this operation is maintained, i.e. storage of vehicles, potential release of vehicle fluids, growth of the business and how they respond to it. Hours of operation when vehicles may be redeemed could affect the neighbors to the southeast.

- 4) *The proposed special land use shall not present unreasonable adverse impacts on traffic circulation. Consideration shall be given to the estimated traffic generated by such use, proximity to major thoroughfares, proximity to intersections, required vehicular turning movements, and provisions for pedestrian traffic.*

More information is required on expected towing volume and location of stored vehicles to determine if traffic circulation will be negatively affected. We need to be assured that the easement to the site is kept clear and towed vehicles are not stored in the right-of-way.

- 5) *The proposed use shall not create additional requirements at public cost for public facilities and services that will be detrimental to the economic welfare of the community.*

At the time of reviewing this plan, there was a proposal to connect to the sanitary sewer system via a pump station. That has changed – there is no sewer at Tyler Road to tap in to. They have an existing sewer system that they will be utilizing for waste disposal on the site.

- 6) *The location of the proposed use shall not result in a small residential area being substantially surrounded by nonresidential development, nor a small nonresidential area being substantially surrounded by incompatible uses.*

The proposed use will not change the existing configuration of uses including the school to the north and east, single-family residential to the south-east, and light industrial to the west.

Area, width, height and setbacks were reviewed by Voght. A proposed 6 ft high block wall is proposed to connect the existing 30 x 100 storage building to the existing storage building on the adjacent property. This arrangement will require a letter of agreement from the adjacent property owner. A 6ft high block wall is also proposed to extend from the northwest corner of the building to the northwest corner of the property. The question is how this wall will be treated and if it will be painted.

A note on the plan states that a downspout for a gutter on the west side of the existing storage building will discharge at SW corner of building. Upon site inspection in June 2002, no such gutter existed and staff would like to know if a new gutter system is proposed for this building.

The illicit office trailer presently on the subject site is not shown on the site plan, therefore, the assumption is that it will be removed. The property lines for 625 and 627 Tyler Road must be located on the Site Plan.

Voght also reviewed building location and site arrangement, site access and circulation, off-street parking, landscaping and lighting. Following is the summary and recommendation of staff:

Special Use

The manner in which the site is operated and maintained will have the greatest impact on long-term compatibility with surrounding land uses. Additional information needs to be submitted to adequately evaluate the proposed land use and determine if it will meet the required Special Use *criteria*. *The applicant must provide the following:*

1. *The general location of stored vehicles within storage areas on the site, and indication of fire/emergency vehicle lanes.*
2. *Indication of the maximum number of vehicles to be stored on site at any one time, and a statement as to how additional vehicles will be handled.*
3. *The average and maximum duration a towed vehicle will remain on site.*
4. *Expected volume (number) of towed vehicles per day, week, or month, and during the AM hours.*
5. *Improved screening should be provided (required by 122-801) around the north and east property boundaries. A staggered row of evergreen trees is preferred. Coordination with East Middle School is required as the fence and/or trees would be planted on the outside of the existing tree/fence line. The applicant should provide verification for the next Planning Commission meeting that contact was made with the school district.*
6. *The vehicle storage area should be paved to reduce fluid contaminants' infiltration and a system installed to improve water quality. How will potential release of*

environmental contaminants be managed by the applicants? A management plan should be submitted.

7. The way that each company will handle growth given the limited size of the site. Is the stated number of employees per shift the maximum contemplated for the businesses?

We recommend that the Planning Commission table the Special Use application pending the above additional information, and revised site plan.

Site Plan

The submitted site plan must be revised to address the following items:

1. Provide letter of agreement with adjoining west property owner to construct 6 ft. high masonry connecting wall to adjacent building.
2. How will the top of the 6 ft. high block wall be treated? Will the wall be painted?
3. Is a new gutter system proposed on the existing storage building, as per the note on the Site Plan?
4. Remove unauthorized office trailer from the site.
5. The property lines for 625 and 627 Tyler Road must be located on the Site Plan.
6. Provide location of stored vehicles indicating location of fire lane. Vehicles should not be stored on the slopes.
7. New fencing must be distinguished from existing fencing on the Site Plan.
8. Fencing/screening or staggered row of evergreen trees must be provided in accordance with 122-801 and 122-703. Permission should be sought from East Middle School.
9. Is a dumpster and enclosure proposed? How will refuse be handled?
10. Site access via 40 ft. easement must be kept clear of vehicles and parked cars to ensure adequate emergency vehicle access.
11. Parking information on sheet 2 of 4 must include the office requirement of 1 space per 300 s.f.
12. Wheel stops must be added to the spaces on the west side of the site that abut the storage building on the adjoining property. Loading/unloading space(s) should be identified on the site plan.
14. The off-street parking lot must be paved in accordance with Section 122-835 (5).
15. The landscape plan is generally poor and should be developed by a landscape architect.
16. A landscaped berm must be provided between the existing office building and residential uses to the south. Provide a berm cross-section.
17. Interior parking lot landscaping must be provided in accordance with 122-704.
18. Provide an overall landscape calculation.
19. Landscape details are required.
20. Remove new landscaping shown on sheet 1 of 4.
21. The size, extent and location of landscaped beds, including edging, must be shown. Areas to be sod must be indicated.
22. A landscape bed (foundation landscaping) should be provided adjacent to the storage building on the west side of the off-street parking lot as this area is visible to the public.
23. A foundation landscaping calculation must be provided.
24. Is signage proposed? If signage is proposed, the location should be indicated on the site plan and proposed elevations should be submitted for review.
25. Will security lighting be provided for the off-street parking area?
26. A photometric study and lighting details should be provided.

R. Miller noted that staff indicated the previous owner was required to clean the site and vacate by September 30th and asked the status of this. Voght responded that as of last week, we noted some disassembling and our attorney is preparing to file a complaint this week. However, Voght spoke with Chris Kind's attorney, Ken Swartz, who indicated that Kind knows he is

in violation and has stopped the assembly. We are prepared to enforce the consent order that he signed.

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

Ken Schwartz, Attorney, representing Scott Klassen, the proposed owner, as well as proposed tenants, Henry Moldovanov, Discount Towing and David Lowell, Lowell's Towing, was in attendance to discuss this issue.

Mr. Schwartz stated that he had reviewed the comments of the September 11th review and agreed that Ed Kubiske, Architect, had been unable to provide a revision in time for staff to do an adequate review. They have appeared at this meeting to answer questions, knowing that they will not get a decision this evening. They are quite far off from being able to establish that the site plan complies with all the elements that the ordinance requires, however, they feel confident if they sit down with staff over the next few weeks, they can identify all the issues and meet all the challenges issued by staff.

One of the issues that came up is whether or not this is an appropriate use of the site, but having said that, about 70% of their business comes from residents of the City of Ypsilanti and they provide a critical service to the residents. With these companies being displaced from Water Street, this service would not be available to the residents.

A revised plan has been submitted although all of the issues in the September 11th have not been addressed. Therefore, Schwartz has proposed to the City Planner that they would meet with him again to try to resolve all of the issues. Mr. Schwartz actually represents Mr. Kind on the appeal but they have been trying to work with the City Attorney to close it down in some sort of appropriate fashion and prepare the way for a new use. He believes the proposed use would be beneficial to the community. They hope to come back in November or December to complete the process.

Scott Klassen, Proposed Owner – currently owns American Towing and believes that what they are currently proposing for this site fits in to M2. He believes it would be a big improvement over the current situation as well as being beneficial to the city.

Henry Brown of E. Brown & Assoc, 30400 Telegraph, Bingham Farms, - is the owner of the storage next to the proposed business. He would like to see a copy of the site plan with what they propose since he feels there is a drainage problem. Voght responded that we can supply him with a copy.

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

F. Davis stated that it has been recommended by staff that the board table the Special Use Request and the Site Plan Review for 30 days giving staff, the applicant and neighbor an opportunity to work out concerns that were addressed earlier.

G. Clark moved to table this issue (Support: R. Miller) and carried unanimously.

VI. NEW BUSINESS

1. 626 N. Huron – Nextel Wireless Communication

The applicant has requested that they have more time to provide additional information. Malmer moved to table this item (Support: R. Miller) and the motion carried unanimously.

2. 1204 N. Congress – Lot Split

Staff report was presented by N. Voght, City Planner, who stated that this is a request for a lot split which would be a recommendation to City Council. This is a step that we are proposing to change in the Zoning Ordinance and would only require going to the City Planner.

This is a platted lot that currently has an existing single family home with a detached garage and a small shed behind. The lot is approximately 18,000 s.f. and is zoned R1. Although land use in this area is R1, and basically it is just an administrative act, the lot split must comply with minimum lot width, minimum lot area and setbacks, which it does. Therefore, staff recommends that Planning Commission recommend approval of the proposed lot split with no conditions as it complies with all applicable zoning regulations.

R. Johnson moved to recommend to Council to approve the lot split of 1204 N. Congress as designated on their survey with no conditions (Support: G. Clark). A roll call vote was taken and carried unanimously.

3. Zoning Ordinance Amendments Review

F. Davis commented that at the last meeting, we reviewed all the proposed zoning ordinance amendments, after which, we indicated about ten amendments that various commissioners had questions on.

Page 43 Sec 122-123 (b)(3) Staff discussed this with Commissioner John Adams and it was agreed that the amendment should read:

“Or addition or replacement of base or subgrade of an existing parking lot of 25 parking spaces or less.”

After further discussion on the remaining amendments, it was agreed that there were no changes required, consequently, R. Miller moved to recommend to City Council acceptance of the Zoning Ordinance Amendments as presented or outlined in the October 10, 2002 (Support: A. Malmer). A roll call vote was taken and carried unanimously.

4. Todd Quatro – Lincoln/North Street

Davis stated that this is a request for an informal presentation to get the feelings of the board prior to expending a large expense on the process.

Voght continued by stating that Mr. Quatro approached him 2-3 months ago with a project he wanted do on the N.E. corner of N. Lincoln and Park. It is zoned B4, planned for Industrial Commercial. Mr. Quatro presented conceptual drawings of the preliminary site plans and preliminary elevations of his proposed project, explaining the plan in detail. Voght added that we need to look at the Master Plan for the whole area.

Voght spoke with a resident in the area who has a petition under way requesting a Master Plan Update for that area. This will be a study item next month and an official item in December. Currently it is zoned B4, planned for Industrial Commercial, neither of which would allow residential, therefore, this is the first hurdle to get past.

Enneking stated that parking could be a concern and Quatro explained his plan to overcome any problems.

Voght suggested that we could consider setting it up in the Master Plan as RC, have Mr. Quatro apply for rezoning and comply with these standards. He also recommended to Mr. Quatro that he get involved in the Master Plan update with the residents since the outcome will affect his project. This could possibly take a few months. Davis agreed with Voght's suggestion as well as G. Clark

5. Resignation

F. Davis stated that Commissioner Amy Malmer plans to resign her position on the board with December being the last meeting.

6. Perrin St Alley

Jim Franke, 107 Perrin Street, apologized for being late to this meeting due to a business conflict. He noted the decision that was made earlier by the board to recommend to City Council not to vacate/close the alley on College Place/Perrin Street. He disagreed with this decision asking about the traffic problem on College. Voght stated that part of the recommendation to Council is to come up with a solution on signage, speed bumps, etc.

He cited a paragraph of Page 3, Supreme Court of Michigan, Ruling 32, which reads as follows:

"An alley is not a highway in the proper sense of the term, but is no more than a way subject to a modified supervision, and liable to be used for drainage and other urban services, under municipal regulation, but intended for the convenience of adjacent property, and not for general travel or passage like streets; and the necessity for streets and for alleys cannot with any propriety be put on the same footing."

It is the opinion of Mr. Franke that by allowing College Place to be using the alley, it is a violation of law and a violation of the Constitution of the State of Michigan. Their legal description of the property states the same as what is stated above (copy of which he gave to the board), that there has not been any formalized document, which he requested at the last meeting, to determine if it has been changed from private to public.

Mr. Franke suggests that we table this for further discussion. Davis responded that the decision has already been made to recommend it to City Council and Mr. Franke now has the opportunity to go before City Council to give his input prior to their final decision. He also advised Mr. Franke that if he had any legal issues, he provide these to the City Attorney ahead of time.

VII. ADJOURNMENT

Since there was no further business, R. Johnson moved to adjourn the meeting (Support: R. Miller) and the motion carried unanimously. The meeting adjourned at 9:55 p.m.