

**PLANNING COMMISSION  
MEETING MINUTES  
JANUARY 17, 2007  
COUNCIL CHAMBERS  
7:30 P.M.**

**I. CALL TO ORDER**

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

**II. ROLL CALL**

**Present:** R. Johnson, G. Clark, B. McClemens, R. Andrews,  
C. Zuellig, P. Lippens

**Absent:** B. Lenart (excused)

**Staff:** K. Hart, Director, N. Voght, Planner II,  
N. Schuette, Exec. Secretary

**III. APPROVAL OF MINUTES**

Commissioner Clark moved to approve the minutes of December 20, 2006 as read (Support: C. Zuellig) and the motion carried unanimously.

**IV. AUDIENCE PARTICIPATION**

None

**V. OLD BUSINESS**

1. 1484 Washtenaw

R. Johnson, Chairperson, stated that this is a request for a Special Use Permit to extend hours of operation to 3:00 and 4:00 a.m. for Mr. Pizza Take-Out Restaurant in the B-1 zoning. At last month's meeting, the Planning Commission noted that since this item was not properly noticed, it was agreed that it should be re-noticed and the public hearing re-convened for additional public input, and then closed.

At the initial meeting, the Planning Commission asked for answers to various questions from the applicant, which he has provided. The Planning Commission also

asked for the Police Department to update the incident list for Mr. Pizza with time-stamps and to provide comparable incident reports for other pizzerias in the area. The Planning Commission also asked staff to verify the hours of operation of other pizzerias in the area, some of which the applicant provided attached to his Special Use application.

N. Voght, City Planner, stated that a hearing was held at the last meeting for public comments and there was a lot of discussion between the applicant and the Planning Commission. He included some of the additional information in the packets addressing questions by the board. The Police Department delivered incident reports for the same time period as previously submitted for Mr. Pizza for three other pizzerias in area: 1) Domino's, 953 Washtenaw, 2) Cottage Inn on Washtenaw (now closed) 3) N. Huron College Inn Pizzeria, providing the incident date, nature of the incident and address with individual time-stamped reports. He referred to various e-mails that have been received as well as letters received this evening.

The Chairperson asked Voght to provide a draft of some possible Special Use Conditions, should the permit be approved, and he provided same. The request is for a Special Use Permit to operate after midnight in the B-1, Neighborhood Zoning District. This particular restaurant is in the B1 zoning which limits uses to before midnight. The Site Plan for the entire property was previously approved as part of the U-Brew Specialty Wine-Tasting use, and therefore, is not an issue at this meeting.

Commissioner Lippens moved to reconvene the public hearing (Support: R. Andrews) and the motion carried unanimously.

**T. Frye, applicant** – stated that he had no comment at this time but asked that the board grant him the opportunity to make comments if necessary after the public portion of the hearing.

**Peter Hubbard, 1509 N. Huron River Drive** – President of the Gerganoff Neighborhood Association is in support of this request. He is not aware of any serious incidents involved with this business.

**Judy Morey, 1205 Whittier** – reiterated her previous statement from the last meeting that she is not in support of this request. It is her opinion that the hours do not suit the neighborhood; it is not in accordance with the Master Plan and compromises the integrity of the neighborhood.

**Clare Beck, 460 Owendale** - stated that every homeowner on Owendale, Mansfield and Whittier that she approached signed the petition in opposition to this request. These are the homeowners closest to the business. Many concerns by homeowners were shared, i.e volume of traffic, litter, graffiti, as well as the noise of the delivery cars speeding out of the parking lot with the radio blaring. The west side is crucial to the City's tax base since it is a healthy neighborhood with high property values. She feels that we are rewarding bad behavior by granting this request. Mr. Pizza could

have applied for a permit when they opened the business but he chose to ignore the law until he was forced to do so.

**Greg Marker, 609 N. Mansfield** – stated his house is the third closest to Mr. Pizza. He supports this request and does not feel it is lowering the value of homes in the area.

**Gwen Buege, 480 Owendale** – stated that while she is happy for their success, she is concerned about the extended hours. There is no buffer to the area and agrees with other residents on the noise of radios. She is also concerned that this will affect the possibility of other businesses requesting extended hours.

**Susan Moeller, 1301 Roosevelt** – supports this request. She stated that Mr. Pizza has agreed to keep delivery in the front only after midnight.

**Joe Golder, 1002 Washtenaw** – stated that Washtenaw Avenue is not residential. He is in support of this request.

**Yvonne Abdo, 2028 Collegewood** – referred to the Master Plan which was put into effect in 1998 with strong citizen input looking carefully for a balance between residential and business. The property owner stated at the last meeting that in order to stay competitive, he needed extended hours. In doing some investigation, she furnished the zoning of other pizzerias in the area and the hours of operation. Domino's has also been operating illegally staying open until 3:00 a.m. While she supports businesses as a whole, they should also be good citizens. She added that a Special Use stays with the property, not with the business owner. She wants to protect the integrity of the neighborhood and is not supportive of this request.

**Candace Pinaud, 609 N. Mansfield** – concerned about denial of this request since it is her opinion we currently have too many empty buildings. She supports this request since Washtenaw is commercial. She also added that it is her opinion that the owner is a responsible businessman.

**Steve Pierce, 118 S. Washington** – originally lived in that area. He stated that a Special Use can be pulled if the owner does not live up to the stated conditions. He referred to the concern of neighborhoods that this could set a precedent for other businesses, i.e. liquor stores and added that State Law prevents liquor stores to be open after midnight. Mr. Pizza has indicated he is willing to cooperate by closing the back door after midnight, ensuring that his employees are aware of the noise of radios, etc. While he agrees that the applicant should have had the Special Use Permit, it is Mr. Pierce's opinion that the applicant is willing to cooperate and should not be punished by denying this request. He is supportive of this request.

**Yvonne Abdo, 2028 College** – represented Ms. McDonna Street, 1446 Whittier who is unable to be in attendance but wanted it on the record that she is not in support of this request.

Commissioner McClemens moved to close the public portion of the hearing (Support: C. Zuellig) and the motion carried unanimously.

Commissioner Zuellig confirmed with Voght that the Domino's Pizza is currently operating without a Special Use Permit beyond allowable hours and Voght agreed that this is true. The City previously received complaints about the hours for that use and we have verified the violations and advised them of this. The original Domino's store was a corporate store but is now a franchise store. The franchisee has indicated that he is trying to get records from Corporate stating that they were approved to operate past midnight before the ordinance changed in 2000. Voght needs to do some follow-up of enforcement with that particular owner.

Chairperson Johnson asked Voght if he had reviewed the original permit in 2000 and if there were hours of operation included in the conditions. Voght responded that he had reviewed the C of O application and the proposed use only stated "carry-out" pizza. Voght responded that there were no hours specified. At that time, C of O applications were not reviewed by the Planning Department but that has since changed and we now have better control. There is no evidence that the applicant is deliberately not following the ordinance. However, he was informed of this requirement in 2003.

Chairperson Johnson stated that we should review the Special Use Standards and determine if Mr. Pizza meets them. Approval of a special land use permit shall be based on the determination that the proposed use will comply with all the requirements of this chapter, including all site plan review criteria (Section 122-127) and the applicable site development standards for the specific use. This would be the basis of our findings. If the board decides to approve this request, we can also include conditions.

**Mr. Frye, Owner of Mr. Pizza** – stated that the reason for this request is because of competition in the marketplace. He gave sales figures from 12/20 – 1/7 noting that 27% of sales were after midnight and this figure was during when Eastern Michigan University was closed during the holidays. Sales would be even higher had they been open. One of his regular customers is St. Joseph Hospital because it is a 24 hr facility and there is no food available for doctors, nurses and family members who are there all night. He will agree to close the back door at midnight and emphasized to staff and the manager that they must turn down car radios. He added that the petition that was mentioned earlier stated that he was open all night long, which is untrue.

Commissioner Zuellig pointed out that this store is located in a B1 Neighborhood Commercial area. It is in two overlay districts on which we specifically went through a process. The first is Residential Commercial Overlay District and the other is Gateway. Both of those are designed to minimize conflict between residential and commercial neighborhoods. She feels that it is very important that we recognize that they are in overlay districts for a reason and intensity of hours for this site is a concern.

Commissioner Johnson responded that we do have some opportunity to mitigate some of that intensity by having the back door closed at midnight, having the radios turned down and the possibility of going back on the hours, i.e. 4:00 a.m. to 3:00 a.m.

Mr. Frye explained that when they close at 3:00 a.m., they stop taking deliveries at 2:30 a.m. and when they close at 4:00 a.m., they stop taking deliveries at 3:30 a.m. They also use this extra time to include clean-up.

Commissioner Zuellig pointed out that all the other pizza stores in the area, other than Domino's, close between 12-2 am.

The board reviewed the standards as follows:

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

COMMENTS: The proposed use is a take-out pizza restaurant, with take-out and delivery orders only. There is no dining on the premises. The proposed hours of operation are:

Sun.-Wed. 4:00pm to 3:00am  
Thurs.-Sat. 3:00pm to 4:00am

According to the owner, more business is conducted after 11:00pm than before. The majority of the Washtenaw Ave. corridor in the City is zoned B-1, Neighborhood Business. This designation is due to the proximity of large single-family neighborhoods that abut the corridor on the north and south. Single-family uses are directly adjacent to the subject property to the northeast. The requested hours of operation to be open until 3:00 or 4:00am are later than what generally may be considered compatible with single-family uses. The character and intensity of the use is limited to vehicular traffic of delivery drivers and customers. Additional information is required regarding the number of deliveries performed after 12:00am to better understand the intensity of the use. However, the proposed hours of operation are substantially later than other uses in the vicinity.

- (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.*

COMMENTS: The proposed hours are generally not consistent with single-family uses, however, conditions may be considered that can ensure more compatibility. For example, all site access after 12:00am to be from Washtenaw Avenue (no use of alley), no loud music from delivery drivers' vehicles, etc. The use as proposed may be detrimental or disturbing to existing or future uses or the public welfare.

- (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.*

COMMENTS: The entrance to the restaurant is from Washtenaw Avenue. To ensure greater compatibility, use of the rear entrance should be prohibited by customers and delivery drivers after 12:00 am.

- (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.*

COMMENTS: The proposed use of the restaurant past 12:00am will not adversely impact traffic circulation. Traffic volumes on Washtenaw Ave. are reduced at this time.

- (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.*

COMMENTS: Any business use with extended or 24-hour operation has more potential to increase police calls from noise complaints, robberies, or other disturbances. Information from the Police Department regarding historical police activity/complaints associated with this address may be helpful in this assessment.

- (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.*

COMMENTS: The proposed use does not change the existing pattern of residential and non-residential uses in the area.

After much discussion on this issue and review of the standards and police incident reports, Commissioner Clark moved to approve the request for a Special Use Permit for 1484 Washtenaw for extended hours to 3:00 a.m. Sunday through Wednesday and 4:00 a.m. Thursday through Saturday based on the following findings and conditions:

**Findings:**

1. The property is zoned B-1, Neighborhood Business, and the existing use provides service to the surrounding neighborhoods, as evidenced by the sales data submitted by the applicant. The data provided was over the EMU holiday break, and 27% of the sales were after midnight, which demonstrates the use is not only serving the university students.

2. The submitted police reports demonstrate that the number of incidents from the applicant's address are well within reasonable limits, and are consistent with other pizzerias in the area.
3. The proposed intensity of the use is not in conflict with the Washtenaw Ave. commercial district, nor the surrounding neighborhoods.
4. The proposed use does not conflict with socially and economically desirable conditions and goals, considering the back door to the building will be closed after 11:00 pm, which will limit the use of the rear access to the building.
5. The proposed Special Use will be designed, constructed, operated and maintained to ensure long-term compatibility with surrounding land uses. The use is located on Washtenaw Ave., a busy road. There are existing buffers such as fencing and landscaping that will reduce potential impacts to surrounding land uses.
6. The proposed Special Use will not present adverse impacts to traffic circulation.
7. The proposed use will not create additional public costs, which is supported by the police incident reports submitted for the use since 2000.
8. The location of the use will not result in a small residential area being surrounded by non-residential uses, nor a small non-residential area being surrounded by incompatible uses.

**Conditions:**

1. The rear door to the building shall be kept locked after 11:00 pm every night and all deliveries and delivery drivers shall park and utilize the front of the building during this time.
2. Loud noise, music, or other disturbances from pizza delivery drivers shall be prohibited after midnight.
3. If more than three verified noise complaints are made to the Police Department in any 12 month period, as a result of activities directly associated with Mr. Pizza, the owner shall be required to appear before the Planning Department and show cause as to why the Special Use Permit should not be revoked. At staff's discretion, the owner shall appear before the Planning Commission for further action.

The motion was supported by Commissioner Lippens. An amendment to the motion was proposed by Commissioner Zuellig stating that in keeping with the competition and their operating hours, she proposes that Mr. Pizza change their hours to 2:00 a.m. Sunday through Wednesday and 3:00 a.m. on Thursday through Saturday. There was no support for this amendment.

A roll call vote was taken on the motion by Commissioner Clark (Support: P. Lippens) and carried with a vote of 4:2. Commissioners Zuellig and McClemens were opposed.

2. 411 S. Adams – Review of Revised Architectural Elevations

Staff presentation was made by N. Voght, City Planner, who stated that this is an approval of a minor site plan amendment, which is a unique situation. In December, 2000, the Zoning Board of Appeals granted a Use Variance to allow the expansion of Lucille's Funeral Home. A variance was needed since funeral homes are not a permitted or special use in the R2 District.

The Planning Commission reviewed proposed elevations in 2002 and 2003 as part of a Site Plan and various changes were made to ensure the addition was residentially compatible and cohesive with the existing building. The existing façade was enhanced with new roof and windows, exterior stucco treatment, and vertical columns. The addition would extend south with similar exterior materials, similar windows and matching roof material. The design would also ensure that the addition appeared to be an extension of the existing building by having a lower roof height, and stepping down to the roof height over the portico.

The changes made to the addition, particularly the windows, doors, stone veneer treatment and roof style, are not architecturally consistent with the existing building. Changes are recommended to some of the design elements to provide a more overall cohesive design, which will ensure an overall design that is more compatible with the neighborhood:

1. Change the two white-vinyl divided light windows to match the tinted, un-divided light windows on the addition.
2. Add vertical columns to the front façade of the addition to match the existing building.
3. Add stone veneer to the base of the existing building to match stone placed on the addition.
4. Modify the roof on the existing building to a pitched roof, with same pitch ratio, with stone veneer on the gable end to match the style of the addition.

Voght recommended that this item be tabled, that the elevations be updated for accuracy and then resubmitted. He also recommended that the architect and owner discuss other changes that will improve the architectural design and provide increased architectural compatibility with the neighborhood.

**Tyrone Currie, Owner** – addressed the changes that have taken place regarding his building. The stone was added on the addition to enhance the building. He was not aware that he had to come before the Planning Commission in order to do that. There are currently four columns on the existing building and they are proposing to add four more on the addition; one on the north and south side and one on the east and west corner of the chapel. Also, the architect shows a window on the plans which was not intended – there is no window under the gable end of the pitched roof. This will have to be corrected on the revised plan. Mr. Currie stated that the suggestion to modify the roof on the existing building to a pitched roof would be cost prohibitive.

After further discussion by the board, Commissioner Lippens moved to approve minor site plan amendment for 411 S. Adams Funeral Home with the agreement that the following conditions will be met:

1. Remove the round window in the gable end of the roof for the addition, as it was never constructed.
2. Continue the stone veneer to the base of the existing building facing S. Adams. The result will be that stone veneer will be applied to the entire west, south, and east (rear) building elevations.
3. Add pilaster columns to the north and south sides of the addition's west elevation. Similarly, add similar columns to the west and east sides of the addition's south elevation.
4. Remove any columns shown on the existing building addition that don't actually exist.
5. Remove the divided light from the existing windows on the existing building facing S. Adams. Provide window tinting to these same windows that matches the tinting of the windows installed on the addition.

The motion was supported by Commissioner Clark. A roll call vote was taken and carried unanimously.

**a. Future Business Discussion**

- i. Commissioner Johnson stated that the sub-committee on Midtown did get together. They did not have anything to report at this time but will be meeting again on February 12<sup>th</sup> at 6:30 p.m. at Bombadills. They will make a report at the next meeting.

Further to this, K. Hart, Director of Planning & Development added that she had a discussion with the City Attorney regarding committees created by the Planning Department and it was suggested that meetings **not** be held in a member's home but rather in a public location. She also recommended that the meeting notice be posted to allow anyone who may be interested to attend.

- ii. Commissioner Johnson spoke with Mayor Schreiber about the possibility of have a Planning Commission board member on the Water Street Committee.

Karen Hart stated that Mayor Schreiber has since stated that he is not forming a committee. The Mayor thought that a better choice may be to have some kind of community forum open to the public. Ms. Hart offered to organize this meeting. The Mayor also stated that other than Water Street, he would like to hold some kind of visioning session, which could entail some kind of committee. At that time, she feels that a member of the Planning Commission would be included.

- iii. K. Hart stated that the Planning Department recently received a copy of the Ypsilanti Township Master Plan and is in the process of reviewing for changes. Staff will try to get an electronic copy to board members and will be glad to pass along any comments.
  
- iv. K. Hart recently had a conversation with John Barr, City Attorney regarding training for boards and commissions. Ms. Hart feels this is very important because of the decisions the various boards have to make. She wished to assure everyone that staff is giving board members as much assistance as possible. She asked Mr. Barr if he would be willing to offer some informational support to all the boards, which he has agreed to do. We would like to schedule a joint meeting with the Planning Commission, Zoning Board of Appeals and Historic District Commission. She is hoping to schedule a meeting early in March. If there are particular areas anyone would like to cover, she can pass this along to the City Attorney.

#### **VIII. ADJOURNMENT**

Since there was no further business, Commissioner McClemens moved to adjourn the meeting (Support: P. Lippens) and the motion carried unanimously. The meeting adjourned at 10:15 p.m.