

**PLANNING COMMISSION
MEETING MINUTES
February 21, 2018
CITY COUNCIL CHAMBER
7:00 P.M.**

I. CALL TO ORDER

The meeting was called to order at 7:05 p.m.

II. ROLL CALL

Present: H. Jugenitz, J. Talaga, A. Bedogne, C. Zuellig, L. Dahl-MacGregor

Absent: P. Hollifield (excused) M. Dunwoodie (excused) C. Madigan (excused)
T. Dennis (excused)

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

III. APPROVAL OF MINUTES

Commissioner Talaga moved to approve the minutes of January 17, 2017 with correction on page 4 as noted (Support: H. Jugenitz) and the motion carried unanimously.

IV. AUDIENCE PARTICIPATION

D. Strenski – 223 Oak Street – stated that in regards to the changing of the zoning on the landfill property from its current zoning designation to Parks that he wanted to ensure that it would not affect the sunshine project he is working on for the city of solar array. Chair Jugenitz responded that it would not be affected as explained in the planning packet.

Desiree Simmons – stated she was tired of the need to work fulltime to fight against the unjust way of doing things in the City. The citizen Master Plan Subcommittee is going to be a lot of work. She is happy to do it because she believes that the good intentions that were laid out to seriously look at the present gaps as they relate to affordability and accessibility are much needed. She feels that the charter amendment to allow non-city residents to join the committee is wasting her time – all in the name of “experts”. Who is more of an “expert” than those that are living every day without access to their basic needs? Language matters. Who would be more motivated to find the best solution on affordability? Who are the people who created the zoning issue at Bell/Kramer who disenfranchised a group of homeowners on the south side? Representation matters – why can’t people who are not “experts” have a seat at the table. She wants to improve her community in a positive way.

Amber Fellows – lives in Ward 3. She had further discussion on non-residents on the Master Plan Subcommittee. The original charter language is very strong, which she reviewed. Since that time, she heard that we need to borrow language from the Planning Commission by-laws that is based on interest and expertise, which is not in the charter language and questions what it means to be an expert in this field. Most of the people on the committee are not experts because they have a deficit of experience. Most of them are middle class, homeowners, and have multiple properties, which is fine. She doesn't need to work with everyone to collaborate. It is her opinion that we don't always have to have people in the various entities making all the decisions since they are not always correct every single time.

Many people on the committee have not had the same life experience that she has, which is fine, however, what it comes down to is that for some of them the stakes are much higher. She doesn't want to have the original language changed, which is very strong and this recommendation would be widening the goalposts. This committee should not be called "a citizen advisory committee" but rather a lobby, or a firm with some tokens on it. She does not want to be a token. The most important part is that she still has hope to have a relationship that could be more equitable, that includes mutual aid, understanding and respect to work together but in order to do that we must have baseline principles that extend trust in the process that was set forth in the charter. She will have to evaluate her commitment to the committee. There is a long history in Ypsilanti in not having a say. Non-residents should be included because they could arrange financing or resources to the committee but not have voting power. There is no one representing Ward I or the Historic Southside and they are some of the people that will be affected by decisions.

Kyle Hunter, 420 S. Adams – reiterated what the previous speakers stated. He is also recommending that we do not consider this change.

Chair Jugenitz stated that in response to the previous speakers, we do have on the agenda to discuss some modifications to the charter, which ones to change/modify.

V. PRESENTATION AND PUBLIC HEARING ITEMS

1. Bell Kramer Neighborhood: PMD to CN-Mid – Public Hearing: Map Amendment

Ms. Wessler, City Planner, gave a brief staff presentation. There is a neighborhood south of the intersection of Spring and S. Huron that is currently zoned Production Manufacturing and Distribution. It was zoned this pursuant to the 2013 Master Plan and 2014 Zoning Update because of concerns about potential contamination due to the adjacent landfill as a way of blocking new residential development. New residential development does not require environmental analysis before taking place. Over the past year, there has been environmental tests on site, the results of which have been encouraging and staff is recommending that the area that is currently residential be rezoned to CN-Mid which closely mimics the previous classification of R2 – allowing for one and two family units by right as well as accessory units by right – there is a limitation on special uses. All of the lots are compliant with CM-Mid – there are no unbuildable lots. Staff is recommending on the rezoning.

Chair Jugenitz thanked staff for all of their work on this issue because of the value of the homes of the residents and how this change will affect them going forward.

Commissioner Dahl-MacGregor asked staff if notices had been sent on this issue and Ms. Wessler responded that copies of all the notices were sent out for those residents within 300 ft of the properties as well as letters being mailed to any others in the area that were directly affected. Commissioner Bedogne stated that he was excited about the rezoning and would urge city council to take action. He also responded to previous speakers on the last Master Plan and the zoning. The sentiment of what happened on the PMD zoning was not to intentionally disenfranchise anyone but rather to keep this from happening from a safety standpoint and now we are trying to fix it.

Commissioner Dahl-MacGregor moved to open the public portion of the hearing (Support: A. Bedogne) and the motion carried unanimously.

Erin Snyder, 2430 Merrill – supports this change. She is the property owner of 129 Bell that is currently rented. While the rezoning may not be a perfect solution, it is a big improvement over the previous situation.

Amber Fellows – she spoke with someone on the Sustainability Commission regarding the rezoning and agreed that we should try to find out what the community would like to see, i.e. solar array. Also, it could be possible for some of the money to go to the residents as a community benefit. She would like to see more participation as to what the neighborhood would want. They might not like a solar array and we should consider a mutual agreement and a better way to gather information. She admires the intent but we need to build relationships and defer to residents to determine what they want.

Cherissa Lamarr, 123 Bell – is a long-time resident. She applauds the committee for any positive steps that have been taken. It has been quite stressful to her. Originally they wanted the neighborhood rezoned back to R2 but that never happened. Her hope is that the city will protect them from any further negativity. The landfill has been there since she was a child and it has been neglected and not taken care of. The residents want protection from anything popping up around the people who live there on a daily basis. There are weeds, traffic, and trash - it is an ongoing issue. They have not been allowed to put in gardens and seem to be discouraged from doing anything positive in that area. They need enforcement on trash, etc. from surrounding businesses and they want to be included on what is going on there as far as future businesses.

Desiree Simmons – Is inspired by the previous speaker and while it isn't always on purpose that things happen and intention isn't always negative but the outcome can sometimes be impactful. We have to focus on what happened and to think about how we right the wrongs.

Michael Simmons, 128 Bell – thanked the committee for working diligently on the restoring the neighborhood back to a neighborhood. He is fine with the proposed rezoning but we need to keep investors out of their neighborhood as well as keeping residents informed and get ideas from them. The City needs to do a better job of keeping city property cleaned up. Also need to work with residents when considering changes.

Lois Richardson, City Councilmember, Ward 1 – thanked the committee for listening and making the rezoning whole and restoring the area although it is not completely what they want

but she appreciates the commission taking action. Most of the people have lived there for many years – they know what they are talking about as far as changes happening over the years. People deserve a better neighborhood. Commission members should drive through the area and see what the residents are talking about. She feels that the effect of the landfill has caused health problems over the years to some of the residents. We need to do whatever we can to better to improve their neighborhood and ensure that the businesses take care of their property.

Norm Burgess, owner of 29 Bell and 102 Spring – agreed on the problem with trash, noting that the ordinance officer is responsible for resolving the problem with city property.

Commissioner Dahl-MacGregor moved to close the public portion of the hearing (Support: J. Talaga) and the motion carried unanimously.

Commissioner Bedogne moved that the Planning Commission recommend approval of the rezoning to City Council to approve a Map Amendment to rezone 11 Kramer St, 15 Kramer St, 21 Briggs St/21 Kramer St, 115 Bell Rd, 45 Kramer St, 132 Bell Rd, 134 Bell Rd, 128 Bell Rd, 118 Bell Rd, 110 Bell Rd, 111-113 Bell Rd, 115 Bell Rd, 119 Bell Rd, 123 Bell Rd, 125 Bell Rd, 129 Bell Rd, from PMD to CN-Mid with the following findings:

- (1) The rezoning is not consistent with the City Framework (Future Land Use Map) of the Master Plan, but new information regarding the area has been developed, thus changing the conditions since Master Plan adoption.
- (2) The rezoning sustains the site's physical, geological, hydrological and other environmental features with the potential uses allowed in the proposed zoning district.
- (3) The property proposed to be re-zoned can accommodate the requirements of the proposed zoning district.
- (4) All the potential uses and building types allowed in the proposed zoning district are compatible with surrounding uses, buildings, and zoning in terms of land suitability, impacts on the environment, impacts on the transportation network, density, nature of use, aesthetics, infrastructure and potential influence on property values.
- (5) The capacity of City infrastructure and services is sufficient to accommodate the uses permitted in the requested district without compromising the health, safety, sustainability and welfare of the city.
- (6) The rezoning will not be detrimental to the financial stability and economic welfare of the City.
- (7) The rezoning would not negatively impact the condition of any nearby parcels considering existing vacancy rates, current per-square foot lease or sales rates, and other impacts.
- (8) The rezoning is consistent with the trend of development in the neighborhood or surrounding area.
- (9) The map amendment proposed is more appropriate than another map amendment and more appropriate than amending the list of permitted or special land uses within the existing districts.

The motion was supported by Commissioner Talaga. A roll call vote was taken and carried unanimously, 5:0.

2. Bell-Kramer Neighborhood: PMD and GC to Park – Public Hearing: Map Amendment

Ms. Wessler, City Planner, gave a staff presentation stating that the city currently owns four properties in this area, 30 Kramer, 50 Kramer, 0 Bell, from GC, General Corridor, to Park, and to rezone 599 S. Huron from PMD to Park. All of them are vacant; 599 S. Huron is the former landfill. These are currently zoned PMD in the case of the landfill and GC in the case of the Kramer addresses. Staff is recommending that they be rezoned to Park in order to maintain them as open space. She reviewed the various uses in Park. Notices were mailed to everyone in the surrounding areas within 300 ft. and notices would be mailed prior to any City Council hearing or action on the subject.

Commissioner Zuellig asked about solar farms, to which Ms. Wessler responded that solar farms are special use and alternative energy is an accessory use. The rezoning of Park does not make it a park and explained the difference. Commissioner Dahl-MacGregor asked what it takes to make it an actual park and Ms. Wessler responded in detail as to the necessary process and what would be involved to accomplish this. This led to a discussion on vacant spaces, gardens, etc. as well as the problem with trash in open spaces.

Commissioner Dahl-MacGregor moved to open portion of the hearing (Support: A. Bedogne) and the motion carried unanimously.

Norman Burgess – The landfill is vacant land and is not taxed – if it is rezoned, will it be taxed? Ms. Wessler responded that the landfill and other vacant properties are city owned and not taxed so it would only involve moving money from one pocket to another. If Mr. Burgess is asking about taxing value of neighboring properties, she does not have information on that. Any questions should be taken to the City Assessor.

Michael Simmons, 128 Bell – stated that it is his opinion the designation of property could be worked out with the City and community working together.

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

Commissioner Talaga moved to recommend approval of the rezoning of 30 Kramer, 50 Kramer, and 0 Bell (11-11-37-101-013) from GC, General Corridor, to Park, and the rezoning of 599 S. Huron from PMD to Park, to City Council with the following findings:

- (1) The rezoning is not consistent with the City Framework (Future Land Use Map) of the Master Plan, but new information regarding the area has been developed, thus changing the conditions since Master Plan adoption.
- (2) The rezoning sustains the site's physical, geological, hydrological and other environmental features with the potential uses allowed in the proposed zoning district.
- (3) The property proposed to be re-zoned can accommodate the requirements of the proposed zoning district.
- (4) All the potential uses and building types allowed in the proposed zoning district are compatible with surrounding uses, buildings, and zoning in terms of land suitability, impacts on the environment, impacts on the transportation network, density, nature of use, aesthetics, infrastructure and potential influence on property values.

- (5) The capacity of City infrastructure and services is sufficient to accommodate the uses permitted in the requested district without compromising the health, safety, sustainability and welfare of the city.
- (6) The rezoning will not be detrimental to the financial stability and economic welfare of the City.
- (7) The rezoning would not negatively impact the condition of any nearby parcels considering existing vacancy rates, current per-square foot lease or sales rates, and other impacts.
- (8) The rezoning is consistent with the trend of development in the neighborhood or surrounding area.
- (9) The map amendment proposed is more appropriate than another map amendment and more appropriate than amending the list of permitted or special land uses within the existing districts.

The motion was supported by Commissioner Bedogne. A roll call vote was taken and carried unanimously, 5:0.

3. Bell-Kramer Neighborhood: Well Restriction Ordinance – Presentation

Ms. Wessler, City Planner, stated there is no action required on this item. Environmental testing has taken place in the Bell-Kramer neighborhood over the past year, due to concerns about migrating contamination from the former City landfill to the south. Based on those results, our environmental and legal consultants have recommended that we pass an ordinance restricting well installation or usage within the potentially affected areas. The proposed ordinance and a map outlining the areas affected were given to the Planning Commission for their information. This will also be checked by MDEQ. It will be going before City Council. For approval at the same time as the other Bell-Kramer changes.

4. Medical Marijuana Provisioning Centers and Growing &/or Processing Facilities Public hearing: Zoning Text Amendments

Staff presentation was made by Ms. Wessler, City Planner, who stated that Medical Marijuana has changed within the State of Michigan. In 2008, the state adopted the voter initiated Medical Marijuana Act and the city adopted zoning ordinances pursuant to that in 2011. The City permitted growing facilities, all of which Ms. Wessler detailed. The state regulations regarding medical marijuana facilities have recently changed, allowing provisioning centers an opportunity for long-term stability and growth. However, several provisioning centers within the City, although legal at their establishment, have been made legal nonconforming due to zoning changes. Council has expressed a desire to allow these establishments an opportunity to become conforming, thus helping to ensure their long-term stability.

There are amendments to our zoning ordinance that are necessary to bring it more into compliance with the Facilities Act and are relatively minor, which Ms. Wessler detailed. Refer to staff report dated 14 February 2018 on city website.

Commissioner Bedogne stated that he appreciated the way Ms. Wessler laid it out with the side-by-side visuals, which helped everyone better understand the changes. Ms. Wessler provided a map of the buffers and were available for anyone in attendance at the meeting.

Commissioner Dahl-MacGregor moved to open the public portion of the hearing (Support: J. Talaga) and the motion carried unanimously.

Norman Burgess – asked if we are using the state guidelines for these dispensaries or incorporating our own zoning laws. Ms. Wessler responded that the State does not put forth any guidelines for these so we are basically updating our existing 2011 guidelines. Oddly enough, since Ypsilanti was on the leading edge of the marijuana legislation, a lot of the regulations around the state mirror ours.

Michael Simmons, 128 Bell – stated that one problem regarding dispensaries is the amount of traffic it has generated around his neighborhood. He would like to see traffic re-routed. He was referring to specifically to the 539 S. Huron dispensary.

Some discussion was held on buffering, to which Ms. Wessler recommended that this would be a subject to be discussed at another public meeting after having been noticed.

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

Commissioner Zuellig moved that the Planning Commission recommend approval to City Council of the proposed text amendments to Sections 122-203, 446, 451, 532 and 533 with the following findings:

- (1) The proposed amendment is consistent with the guiding values of the Master Plan.
- (2) The rezoning is consistent with the description and purpose of the proposed district.
- (3) The proposed amendment is consistent with the intent of this Zoning Ordinance.
- (4) The proposed amendment will enhance the functionality, transportation network or character of the future development in the City.
- (5) The proposed amendment will preserve the historic nature of the surrounding area and of the City.
- (6) The proposed amendment will protect the health, safety, and general welfare of the public
- (7) The proposed amendment will address a community need in physical or economic conditions or development practices.
- (8) The proposed amendment will not result in the creation of significant nonconformities in the City.
- (9) The proposed amendment is needed to align with recent changes in State law.

The motion was supported by Commissioner Dahl-MacGregor. A roll call vote was taken and carried unanimously, 5:0.

5. General Corridor – Addition of Special Use for Medical Marijuana Provisioning Centers
Public Hearing: Zoning Text Amendment

Staff report was presented by Ms. Wessler, City Planner, who stated that back in 2011 we approved zoning for both dispensaries and also growing facilities. We permitted them in B2, B3 and B4 zoning districts by right. In 2014, our zoning code changed drastically. At the time,

there was not a whole lot of thought given to medical marijuana facilities because it is a volatile area of regulation on both the State and Federal level. As a result, three of the dispensaries became nonconforming located in the GC, General Corridor and are now not allowed in that district. In order to help them come into conformance, we are proposing that we approve a text amendment to GC, General Corridor Zoning district, permitting Marijuana Provision Centers (Dispensaries) as a Special Use (Sec 122-451). Refer to Staff report dated 14 February 2018 on the city website.

After some discussion with board members on special uses, Commissioner Dahl-MacGregor moved to open the public portion of the hearing (Support: C. Zuellig) and the motion carried unanimously.

Dennis Cowan, Attorney – was in attendance to represent Corey and James Nemeth, 539 S. Huron. Mr. Cowan urged the board to approve the text amendment, which will give the owner the opportunity to apply to expand their facility and re-invest in the community. Mr. Cowan added that the site plan will involve new construction and total demolition of the canopy.

Norm Burgess - Asked if the holding tanks had ever been removed from that property, to which Ms. Wessler responded that they were removed in the 1980's.

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

Commissioner Zuellig is supportive of this project but wondered what other communities are doing on special conditions for these kinds of facilities, i.e. hours of operation. Also wants to ensure that items that are leftover from another use and don't have anything to do with the proposed business be removed, i.e. canopies. Commissioner Bedogne supports additional special conditions. The City Planner stated that Planning Commission does have another tool to use and that is the power in Sec 122-329 to revoke the special use with special conditions, which is something that should not be done lightly and there should be findings of fact.

Much discussion was held on the pros and cons and setting a precedent.

Commissioner Dahl-MacGregor moved that the Planning Commission recommend approval to City Council the proposed text amendment to add "Medical Marijuana Provisioning Centers" as a special use to the GC, General Corridor zoning district, Section 122-451, with the following findings:

- (1) The proposed amendment is consistent with the guiding values of the Master Plan; and
- (2) The rezoning is consistent with description and purpose of the proposed district; and
- (3) The proposed amendment is consistent with the intent of this Zoning Ordinance; and
- (4) The proposed amendment will enhance the functionality, transportation network or character of the future development in the City.
- (5) The proposed amendment will preserve the historic nature of the surrounding area and of the City.
- (6) The proposed amendment will enhance the natural features and environmental sustainability of the City.

- (7) The proposed amendment will protect the health, safety, and general welfare of the public; or
- (8) The proposed amendment is needed to correct an error or omission in the original text; or
- (9) The proposed amendment will address a community need in physical or economic conditions or development practices.
- (10) The proposed amendment will not result in the creation of significant nonconformities in the City.

The motion was supported by Commissioner Talaga. A roll call vote was taken and carried 4:1. Commissioner Zuellig opposed. Motion carried.

6. 75 Catherine – Public Hearing: Special Use and Site Plan

Ms. Wessler, City Planner, stated that this is a requested for approval of a Special Use and Site Plan.

Chair Jugenitz stated that since Commissioner Talaga is also our representative on the Zoning Board of Appeals and they already voted on this matter, he cannot vote and we do not have a quorum, therefore, we are recommending that this item be tabled until next month.

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

Norm Burgess – He is not familiar with special use and site plan – is there a limit on how close you can have these facilities and what is exactly the proposed use for the site.

City Planner Wessler gave a brief background on this property. A special use permit was granted for the site for its use as a medical marijuana grow facility back in March 2013. The property was rezoned from CN to PMD in October 2017. The applicant requested a variance from the front, street side and rear setbacks and was seen by the Zoning Board of Appeals at their January 24th meeting. The ZBA approved the front and street side setback variances but denied the rear setback. The applicant has since corrected the rear setback on the plans to conform to the zoning ordinance. The current plans indicate a building expansion to 19,062 sq. ft. with a north addition of 3,121 sq ft, and a south addition of the 8,326 sq ft. New concrete curbing and asphalt paving, dumpster, landscaping and lighting will be installed on site.

This would be an expansion of the existing Special Use Permit for Medical Marijuana Grow/Processing. This expansion is being requested due to changes in State law with the passage of the Medical Marijuana Facilities Licensing Act (MMFLA), which now allows for commercial growing and processing of medical marijuana, instead of the smaller caregiver model. The applicant is pursuing a commercial grow license from the State; an expansion would allow them to remain competitive in the newly opened market.

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

Commissioner Dahl-MacGregor moved to table the request for approval of Special Use and Site Plan for 75 Catherine (Support: C. Zuellig) and the motion carried unanimously.

VI. NEW BUSINESS

1. Master Plan: Housing Subcommittee charter modifications

Chair Jugenitz stated that she was made aware there was an omission from the version that was posted on line from the packets in front of the commission to add one individual who was a community resident who was experiencing homelessness. Chair Jugenitz continued that she takes exception to some of the amendments to the proposed charter since it is already a large committee and would like to take this opportunity to have a discussion by all members.

Ms. Wessler, City Planner, reviewed the amendments regarding potential residency.

After much discussion and input by all board members, Commissioner Zuellig moved to amend the Committee Charter: Citizen Committee on Housing Affordability & Accessibility

The committee will be comprised of:

- Up to four (4) members of the Planning Commission
- One member of the Human Relations Commission
- One member of the Sustainability Commission
- One representative of the Ypsilanti Housing Commission
- One representative of EMU
- One representative of Defend Affordable Ypsi
- One representative of Ann Arbor Center for Independent Living
- One representative of Avalon Housing
- One representative of Ozone House
- One representative of a civic affairs organization at the county or state level
- One Ypsilanti owner-occupant
- One Ypsilanti business owner (and employer)
- One lessor of rental properties in Ypsilanti
- Two renters of residential property in Ypsilanti
- One Ypsilanti community member experiencing homelessness

Members shall be residents of the City. In the event that a resident cannot be identified for a specific seat, no more than 25% of seats may be occupied by non-residents. Only residents shall have a vote on matters requiring one. A guiding principle in recruiting and selecting individuals to serve on the committee will be to the degree to which the members, as a whole, represent the diversity of the Ypsilanti community, both demographically (in terms of income, race or ethnicity, age group and ward) and with respect to affordability and accessibility-related interests.

The motion was supported by Commissioner Dahl-MacGregor. A roll call vote was taken and carried 3:2. Commissioners Bedogne and Talaga opposed.

VII. OLD BUSINESS

None

VIII. FUTURE BUSINESS DISCUSSION/UPDATES

1. Capital Improvements Plan: Annual update process/committee formation

City Planner Wessler asked that a delegate from the Planning Commission be appointed to work on prioritizing the Capital Improvement Plan. Commissioner Talaga agreed to serve.

IX. COMMITTEE REPORTS

1. Master Plan: Housing Affordability and Access subcommittee

X. ADJOURNMENT

Since there was no further business, Commissioner Bedogne moved to adjourn the meeting (Support: L. Dahl-MacGregor) and the motion carried unanimously. The meeting adjourned at 11:02 pm.