

**Mt. Pleasant Planning Commission
Minutes of Regular Meeting
November 5, 2009**

I. Chairman Orlik called the meeting to order at 7:00 p.m.

Present: Brockman, Ellertson, English, Holtgreive, Jakeway, Lux, Orlik (Chair), Robinette

Absent: Smith (Vice Chair).

Staff: Gray, Murphy.

II. Approval of Agenda:

Motion by Brockman, second by Ellertson, to approve the agenda. Motion approved.

III. Approval of Minutes

A. October 1, 2009 Regular Meeting.

Motion by Brockman, second by Ellertson, to approve the minutes from the October 1, 2009 regular meeting as written. Motion approved.

IV. Zoning Board of Appeals Report.

A. Monthly report for October.

Commissioner Ellertson reported that the Zoning Board of Appeals (ZBA) heard two cases in October.

One request, from 915 W. Broadway, involved a parcel with two residential buildings on it, located in a C-1 zoning district. The owner was proposing converting the smaller unit into an office to conduct a tutoring business. The ZBA approved the change in use, making a determination that the office use would be a lesser non-conforming use than having a second residential use on the same parcel.

Another request was from the owner of 802 S. Main Street, who was proposing the demolition of an existing rooming/boarding dwelling to build a new rooming/boarding dwelling to be occupied by a Sorority at the same location. The proposed redevelopment involved several requests for variances. The applicant was seeking an increase in occupancy from the 11 that it is currently licensed for, to 12, and needed a variance from the required square footage of lot area per occupant. In addition, he was requesting a parking variance (proposal was for 12 parking spaces, where 14 are required by ordinance for a registered student organization). In addition, he was requesting a greenbelt variance and setback variance. Commissioner Ellertson commented on the fact that this project received approval in 2002, but the redevelopment never took place. Because the approval expired, the applicant was required to come back before the Board. Commissioner Ellertson commented on the fact that staff worked diligently with the developer to upgrade the building materials and design of the proposed structure, which has resulted in what he feels will be one of the nicest rooming/boarding dwellings in the city. Commissioner Ellertson also referred to the Mission Street concept, where developers are offered some flexibility if they are willing to make some upgrades in building materials, etc., and indicated he feels this is a great model of what can be achieved through this method. The Zoning Board approved the variances with a modification to the site plan to eliminate the need for a front yard set-back variance by reducing the size of the parking spaces. Commissioner Ellertson stated that this applicant will be coming before the

Planning Commission next month for Site Plan Review and to request a Special Use Permit for this project.

V. Public Hearings:

Chairman Orlik explained the public hearing process and asked staff to introduce the first case.

- A. Case #SUP-09-12 – Norman D. Dow and Sinister Productions – Request for a Special Use Permit to conduct a tattoo parlor (a Group A Special Regulated Use).

Staff presented details of the applicant's request based on the staff report dated October 29, 2009. The location is in the Silverberg Jewelers complex at 1807 S. Mission. The applicant would like to relocate his existing business on Isabella Road in Union Township to this location. The property is zoned C-3 and is surrounded by C-3 property to the west, north and south, with M-2 zoning to the east of it. Staff reported that the ordinance considers tattoo parlors a Group A "Special Regulated Use" and therefore, there are additional restrictions that need to be considered. Group A uses are not allowed if they are within 1,000 feet of residentially zoned property, trailer parks, K-12 school, public park, church or cemetery. This restriction can be waived if a petition is signed by at least 51% of the property owners within 500 feet. Staff reported that the applicant had submitted a petition signed by approximately 68% of the property owners. Out of the 8 single-family residential properties located within 500 feet of the property, five of the owners had signed. Staff further reported that the site does not directly abut single-family residential property, but is separated by other commercial properties, creating a transition.

Staff also explained that Group A uses are not allowed if there are already two or more Group A and/or Group B uses within 1,000 feet of the boundaries of the site. The Planning Commission may grant a waiver if the applicant meets the criteria listed in Section 154.051(C)(10). The applicant has addressed the criteria in the materials submitted. There are two liquor stores, which are considered Group B uses located within 1,000 feet of the site. Group B uses are somewhat less restrictive than Group A uses. Staff further noted that while the subject parcel is inside of the 1,000 foot limit from the Stadium Mall parcel where one of the liquor stores is located, the two suites are more than 1,000 feet from each other.

Staff stated that notices of public hearings are required to be sent out to all property owners and tenants within 300 feet of the subject property; however, because this is considered a Group A Regulated Use, the city sent notices to all property owners and tenants within 500 feet of the property to assure those who may be affected by the business were aware of the request.

As stated in the applicant's application materials, as of the first of next year, the State of Michigan will begin to require tattoo parlors to be licensed and inspected by local health departments. Staff recommended that if the Planning Commission grants the waivers to the separation requirements and approves the Special Use Permit, that they require the applicant to maintain a current copy of their license with the City.

Staff stated that no changes to the site were being proposed, and any signage would be subject to permitting through the Building Department.

Norman D. Dow, owner of Sinister Productions, addressed the Board as applicant for this case. Mr. Dow stated he has been in business for 15 years, 12 of them in the Mt. Pleasant area. He explained that his clientele is from all walks of life and that he runs a clean and professional business. Mr. Dow stated that although the name of his business and some of the artwork has a sci-fi or Halloween feel to it, that

this is only one aspect of his business and he enjoys all types of art forms and that “everyday normal” tattoos are also part of his business. Mr. Dow reiterated that the State is setting new regulations for tattoo parlors and that he has been working with MIOSHA to assure his business is in line with the regulations. Mr. Dow spoke about how tattoos have grown in popularity in the past few years, and assured the audience that his place of business is not a “hang out” and that when he is working, it’s all business. He further stated that his facility will not allow smoking and that the only place clientele would be allowed to smoke would be outside the back of the building. In addition, he stated that alcohol and drugs will not be permitted in his place of business.

Chairman Orlik asked Mr. Dow for clarification on ages of his clientele. Mr. Dow stated that 16 & 17 year olds may get tattoos, but only with signed parental permission. He requires copies of driver’s licenses, etc. to verify signatures. Once a client is 18 years old they are considered consenting adults and do not need permission. His clientele range in age from 16 – 96.

Chairman Orlik asked about hours of operation. Mr. Dow indicated he is currently open from noon until 9 p.m., Tuesday – Saturday and closed Monday and Sunday. He may wish to expand his hours to include Monday and/or Sunday in the future.

Commissioner Brockman asked why he wished to move from his established location. Mr. Dow indicated he feels it is a better location, closer to campus and he is looking to expand his business.

Chairman Orlik opened the public hearing.

Renee Rowley, owner and operator of The Designer Consignor, located directly next door to the subject property, spoke in strong opposition to the request. Ms. Rowley shared photos of the site with the Board, along with letters of opposition signed by several of her customers. Ms. Rowley stated the door to her business is literally 2 inches from the door to the subject property and that these two businesses share the same awning. Ms. Rowley explained that her business is an upscale resale shop specializing in dresses for special occasions, and the proposed tattoo parlor is not a compatible business. Ms. Rowley questioned the ordinance and suggested that the surrounding tenants’ views should be given more validity than absentee owners as they are the ones who will see the impact. She also stated she feels the petition violates the spirit of the ordinance and questioned the legitimacy of the petition signatures. Ms. Rowley spoke of the recent work by City Boards to improve Mission Street and questioned whether a tattoo parlor on the main thoroughfare fits in with these plans.

Jason Pyles, owner and operator of JP’s Gym spoke in support of the proposal. Mr. Pyles stated he feels this would be a great location for the tattoo parlor and with the diverse clientele, would be a benefit to the other businesses in the immediate area.

Roy Thomas, former US Marine, spoke in favor of the tattoo parlor. As a former client of Mr. Dow, Mr. Thomas spoke of the professionalism and cleanliness of the business and stated he would refer anyone who was interested in getting a tattoo to Mr. Dow.

David Rowley, co-owner of the Designer Consignor, spoke in opposition. Mr. Rowley referred to a recent denial by the Planning Commission to allow a tattoo parlor in the C-2 district and stated that they should also deny it in the C-3 district. Mr. Rowley indicated he felt the business had a “darkness” and “evil” connotation and referred to an on-line clip that he found extremely offensive. He finished by stating no waivers should be granted and that it is not a compatible use with the neighboring businesses.

Jay Hoffman, Physician and College professor spoke in favor of the proposal. Dr. Hoffman spoke of the growing popularity of tattoos and also stated that Mr. Dow runs a very clean, sterilized and private operation. He stated that he was aware of the video clip that Mr. Rowley referred to and agreed that it was gory; however, the artwork was phenomenal. Dr. Hoffman stated he felt it would be a crime not to allow Mr. Dow to be a part of the city.

Steve Silverberg, owner of the property spoke in favor of the tattoo parlor. As the landlord, he is concerned with the type of traffic in and out of the building, and has reached an agreement with Mr. Dow that any smoking will take place in back of the building rather than having anyone "hanging out" in front. He indicated that Mr. Dow would be a responsible tenant and would bring in a variety of customers. He stated that he feels any business that brings more people into the area will be beneficial to all the other businesses located there.

Angie Keidel, Auburn MI, spoke in favor of the request, stating that her son, her husband and herself are all clients of Mr. Dow and consider him to be an outstanding artist. She further referred to him as a family man who cares about his children and would like to see him have a better location.

Alisa Cwiek, local resident and student, spoke in favor of the request. Ms. Cwiek stated she feels it is exciting to have a good quality tattoo parlor located close to campus. As a client of Mr. Dow, Ms. Cwiek also spoke of his professionalism and artistic talent. She further indicated that as a former customer of the Designer Consignor as well, she feels it is a good, "fun blend" of businesses. She stated she feels it is important to support our small businesses in order to keep the community strong.

Dwain Ackerman, CMU student spoke in support of the request. Mr. Ackerman also spoke of the professionalism of Mr. Dow, and his artistic abilities. He stated he feels the tattoo parlor will be good for the other businesses in the area, including the Designer Consignor.

There being no one else who wished to speak, the public hearing was closed.

Board Discussion:

Chairman Orlik suggested the Board should begin by discussing the waiver of the separation regulation. If the majority does not agree that a waiver is warranted, then there would be no point in moving on.

Discussion took place on whether the petitions were valid and if staff verified the validity. Staff indicated that based on the information available to us, the signatures are valid. He noted that he had not been provided with the information noted by the Rowleys regarding the petitions. He further reiterated to the Board that notices were sent to all property owners and occupants in a 500' radius of the subject property. Chairman Orlik commented that the Planning Commission has always accepted petitions at face value.

Commissioner Lux stated she does not feel Mr. Silverberg would jeopardize his other tenants' business; and was not concerned with the area becoming a "skid row."

Commissioner English agreed that Mr. Silverberg is a credible and respected businessman, however, she stated she did not feel that this was the issue. She urged the Board to think very seriously about granting a waiver and suggested that if the Board is not in agreement with the guidelines that are currently in place, then perhaps they should be changed.

Commissioner Jakeway clarified that the Ordinance does make an allowance for the Board to grant the waivers if they deem they are warranted.

Chairman Orlik suggested the Board go through each of the four conditions needed to consider the waiver.

1. *That the proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this section will be observed.*

Commissioner Jakeway commented that this request appears to be more of a tenant/landlord issue, as the surrounding property owners do not appear to have an issue with the request – only one of the other tenants.

- b. *That the proposed use will not enlarge or encourage the development of a "skid row" area.*

Commissioner Robinette commented that the applicant has already addressed that concern and has agreed that there will be no loitering. Chairman Orlik commented that the Board could also attach conditions if they feel the waiver is justified.

Commissioner Brockman commented that Mr. Silverberg sits on the Mission Street DDA Board and feels he would not allow the property to become a “skid row.”

Commissioner Lux commented that she wasn’t even aware of the other tattoo parlor on Mission Street, therefore was not concerned with the area becoming a “skid row.”

- c. *That the establishment of an additional regulated use in the area will not be contrary to any program of neighborhood conservation nor will it interfere with any program of urban renewal.*
- d. *That all applicable regulations of this section will be observed.*

Chairman Orlik stated that each commissioner needs to consider these four points and decide whether they feel a waiver is warranted. If the Board decides not to grant the waiver, then they will not be considering the special use permit.

Commissioner English asked for clarification when considering the waivers: One due to the proximity of the neighborhood and the other due to the proximity of the other regulated uses.

Gray clarified that there were two waivers needed, one for the 1,000 foot separation requirement from residentially zoning property, which is tied to the petition; and the other from the 1,000 foot separation requirement from other special regulated uses.

Further discussion took place on the validity of the petition and if staff should verify it. Commissioner Holtgreive stated that this would go against past practice and did not see the necessity. It was also noted again that the notice had been sent to both owners and occupants of all properties within 500 feet of the location.

Motion by Holtgreive, support by Brockman to grant the waiver to the 1,000 foot separation requirement from residentially zoned property, based on the petition submitted by the applicant, and the 1,000 foot separation requirement from two existing Special Regulated Uses to permit a tattoo parlor at the

property located at 1807 S. Mission Street on the following basis:

- a. Based on the representations of the applicant, including the proposed conduct of the business and hours of operation, the proposed use is consistent with the purpose and intent of the ordinance and will not be injurious to surrounding properties.
- b. As one of the two other Special Regulated Uses is near the limits of the 1,000 foot separation requirement and neither of the other uses is a Group A use, the proposed use will not encourage development of a "skid row" area. Further, the proposed use has received support from a significant majority of the commercial and residential property owners in the vicinity of the site and will be subject to State health and safety licensing beginning in 2010.
- c. The proposed use is not contrary to any neighborhood conservation program and, in fact, has been placed at a site that provides some transitional commercial, office, and high density residential uses between it and the single family neighborhood.
- d. Based on the representations of the applicant, the use will otherwise comply with the requirements of the Ordinance.

Roll Call Vote: Ayes: Brockway, Ellertson, Lux, Holtgreive, Orlik, Jakeway, Robinette. Nays: English.

Motion carried: 7:1

Chairman Orlik stated that based on the granting of the waivers, the Board would need to consider granting of the Special Use Permit.

Commissioner Robinette suggested attaching a condition of no loitering to any motion. Chairman Orlik stated the Board could also stipulate hours and days of operation if they choose to as well.

Commissioner Lux asked about the hours of operation for the other businesses in that area. It was concluded that they differ.

Motion by Holtgreive, support by Brockman to approve the request for SUP-09-12 from Norman D. Dow and Sinister Productions Tattoo for a tattoo parlor (Group A Special Regulated Use) at the property located at 1807 S. Mission Street. Approval is subject to the following conditions:

1. The business shall be conducted in accordance with the representations of the applicant, including hours of operation (Tuesday – Saturday, noon – 9:00 p.m.).
2. Once State licensing requirements go into effect, the applicant shall maintain a current copy of the required license with the City's Community Development Department. Operation of the facility without a license required by the State or other entity shall be cause for revocation of this permit.
3. The applicant shall comply with DPS and DPW requirements.

Roll Call Vote: Ayes: Brockway, Ellertson, Lux, Holtgreive, Orlik, Jakeway, Robinette. Nays: English.

Motion carried: 7:1

VI. Public Comments:

There were none.

VI. Site Plan Reviews:

SPR-09-24 – 1306 S. Mission – Tancor Corporation - Site Plan Review to allow construction of a 1,494 square foot building addition to the Sears loading dock.

Staff presented details of the applicant's request based on the staff report dated October 28, 2009, noting that the applicant is proposing the removal of an outdoor enclosure at the loading dock at Sears, which is located on the northwest corner of the building located at 1418 S. Mission Street, on the southwest corner of Preston and Mission Street. The applicant would replace the enclosure with a building addition to match the existing structure. The retail use and associated loading is permitted in the C-3, General Business zoning district. Staff further noted that the proposal includes the demolition of the former Taco Boy building, with plans to begin the demo by Thanksgiving. Staff stated there are no setback issues, and the addition would be used strictly for storage, therefore, there would be no changes to the parking. Staff reminded the Board that access management for the site was addressed with the preliminary site plan for the new building that has been proposed near the intersection of Preston and Mission. With the proximity of the proposed building to the intersection, several of the existing driveways will be closed, consistent with the intent and purpose of the access management regulations.

Commissioner Ellertson stated he felt this would be an improvement to the site.

Motion by Brockman, support by Lux to approve SPR-09-24 to allow the installation of a 1,494 square foot building addition to the building located at 1306 S. Mission Street, based on the drawing prepared by Rowe Incorporated for Sears Receiving Addition (Job No. 09M0110) dated October 20, 2009, with the following condition:

1. The applicant shall comply with the requirements of the Division of Public Safety (DPS) and Division of Public Works (DPW).

Motion approved unanimously.

VIII. Unfinished Business:

None

IX. New Business:

None

X. Other Business:

A. Staff Reports.

1. December Planning Commission meeting – Anticipated agenda items. Staff reported that an application has been submitted by the owner of 802 S. Main street for a Special Use Permit to allow a rooming/boarding dwelling to be used by a Registered Student Organization, along with an application for Site Plan Review for the same development. In addition, there has been some interest in a potential conditional re-zoning; however, the applicant has not submitted a complete application at this point.

2. Census: Staff reported that the 2010 Census is quickly approaching. The Community Development Department will be heading up this process and has received approval to hire a Public Relations firm to help with the awareness campaign. Staff stressed the importance of getting the information from the student population. Chairman Orlik also stated there are a lot of people who leave the area for the winter months and it is important to get the information from them as well.
3. Downtown to Campus: Staff reported that Dan Burden recently re-visited Mt. Pleasant to meet with stakeholders regarding a better connection from downtown to campus. A lot of good feedback from business owners and residents was gathered. Commissioner Jakeway asked about the walkability timeline. Staff stated it has been put in the budget for 2010 and he will provide an update at the next meeting.

B. Main Street Historic Overlay.

Commissioner Jakeway asked about the status of the Main Street Overlay project and whether this concept has been dropped. Gray stated that the focus has been on Mission Street, and the Main Street Overlay project has been put on hold, but is not gone forever. Chairman Orlik asked that staff do some digging and report on the status of this project.

X. Adjournment:

Motion by Brockman, second by English to adjourn. Motion approved. Meeting adjourned at 8:43 p.m.

BAM