

**Mt. Pleasant Planning Commission
Minutes of Regular Meeting
September 3, 2015**

I. Chairman Cotter called the meeting to order at 7:02 p.m.

Present: Cotter, Dailey, Friedrich, Hoenig, Horgan, Irwin, Kostrzewa, Ranzenberger

Absent: Driessnack.

Staff: Kain, Murphy

II. Approval of Agenda:

Motion by Cotter, support by Kostrzewa, to move item X.A. up on the agenda to follow VII. Public Comments and to approve the agenda as amended.

Motion approved unanimously.

III. Approval of Minutes

A. August 6, 2015 Regular meeting

Motion by Dailey, support by Kostrzewa, to approve the minutes from the August 6, 2015 regular meeting as submitted.

Motion approved unanimously.

IV. Zoning Board of Appeals Report for August:

Commissioner Friedrich reported that the ZBA did not meet in August.

V. Communications: Kain noted that one communication was received from the City Manager, with two referrals from the City Commission (CC):

- 1) Request for the Planning Commission (PC) to review the Mission Overlay Zoning Ordinance;
- 2) Request to have the minutes reflect the vote count so the CC knows if matters were approved unanimously or if it was a majority vote.

Kain noted that we have already incorporated the second request with the August minutes; however noted that he will do some research on the Mission Overlay Zoning Ordinance and will likely ask the PC to set a work session prior to the end of the year to discuss possible revisions.

VI. Public Hearings:

A. SUP-15-10 1007 S. Main.

Kain introduced SUP-15-10, noting that this was a request to convert the existing Special Use Permit (SUP) for a rooming/boarding dwelling to a SUP for a Registered Student Organization (RSO). Kain provided some background on the site, explaining that the property was redeveloped in 2011 under the current M-2 redevelopment standards and was approved for a RSO. The RSO subsequently lost their standing as a RSO with Central Michigan University and the owner came back to the Planning Commission in 2014 to allow a change of use to a rooming dwelling with no change in the occupancy.

The owner has secured new tenants, Pi Kappa Phi, and is therefore back before the PC to change the use back to a RSO.

Kain noted the land use as M-2 Multiple Family Residential, surrounded by M-2 Multiple Family Residential on all sides. RSO's are allowed by special use permit in the M-2 zoning district.

Kain shared photos of the site, noting that the parking is located at the rear of the property and is accessed off the alley. Kain noted that RSO's are required to meet certain criteria and noted that neither the site nor the criteria has changed since the original approval in 2011.

Kain explained that the dwelling was constructed for 12 occupants, providing 14 parking spaces, which meets ordinance requirements. Kain noted that although the PC has the ability to require additional parking staff does not feel it is necessary for this request. Kain concluded his report recommending approval.

Chairman Cotter commented that as the site meets the criteria, there really isn't any reason not to approve the request.

David Barberi, Fraternity Advisor, and David McCatty, 1007 S. Main, addressed the Board. Mr. Barberi noted the primary reason they wish to move to this location is to be more centrally located to campus and they feel that moving south of High Street is a much better fit than their original location at 617 S. Main Street.

Chairman Cotter opened the public hearing. There being no one who wished to speak, the public hearing was closed.

Motion by Kostrzewa, support by Friedrich to approve SUP-15-10.

Motion approved unanimously.

VII. Public Comments:

Chairman Cotter opened the public comments section of the meeting. There being no one who wished to speak, public comments was closed.

X. New Business (moved up on the agenda)

A. Request for extension of SUP-14-12.

Kain provided the background for case SUP-14-12, noting that the Planning Commission had approved the proposed development at 915 E. Broomfield under the Mission Redevelopment Ordinance at their September 2014 meeting. Kain noted that SUP's and Site Plan Reviews (SPR's) expire in one year if no permits have been obtained. After receiving bids for construction, the applicant has asked for an extension to allow more time to get the project started.

Kain commented that the PC should review the criteria and if nothing has changed, should approve the extension. Kain concluded his report recommending the PC approve a one year extension with the conditions that were attached to the original approval.

The applicant, Phil Seybert, 608 E. Bluegrass, addressed the Board. Mr. Seybert commented that there is currently a shortage of construction laborers and the subcontractors have too much work and subsequently, bids came in way over the budget for the project. Mr. Seybert explained that they will re-bid the project in January and hope to have the project started by next September.

Motion by Dailey, support by Ranzenberger, to grant an extension of SUP-14-12 through September 4, 2016 subject to the following condition:

- 1) All prior conditions of approval related to SUP-14-12 shall remain in effect.

Motion approved unanimously.

VIII. Site Plan Reviews:

A. SPR-15-10 - 617 W. Pickard.

Kain introduced case SPR-15-10, noting this case was postponed from last month to allow the applicant to speak to the request, as they were not in attendance for the last meeting.

Kain explained that this was a request to expand Pete's Auto Body at 617 W. Pickard, which is just east of the railroad tracks. Kain shared photos, along with an overview of the site, noting that the business, which specializes in auto body repair, has operated out of this location for several decades.

Kain noted that in 1964 the ZBA approved a "motor repair" use at the site. Auto repair is not specifically spelled out as an allowed use in the I-1 Industrial district, and the PC is also being asked to make a determination on whether the existing use is of the same general character as the allowed uses in the I-1 district. This will bring some clarity to the issue on whether the use is or is not a conforming use.

Kain noted that the PC has approved various requests over the years for expansion of the business.

Kain noted that the zoning in the area is varied. The applicant's site is zoned I-1 Industrial, with future land use designated as Industrial. To the north there is conditional C-3 zoning; to the east

is Industrial and to the south is R-4 Residential; however, the property is not used as residential, but is city-owned public parks; and to the west there is I-1 Industrial zoning.

Kain shared the site plan, showing the proposed addition, which will be used for storage of vehicles currently being stored outside. Kain noted that to the south, there is currently gravel which will be paved to allow for additional parking and to provide an area for a dumpster and enclosure.

Kain noted that because the site abuts a residential district (City-owned park property), the ordinance requires a 4-6' high wall; however, based on its location along the Chippewa River, the applicant has proposed, with staff's approval, that an obscuring greenbelt be substituted for the wall. Kain noted that the PC has the authority to approve the substitution.

Kain noted that the project meets the setback requirements with the exception of an existing non-conforming setback on the east side.

Parking on the site is proposed at 41 spaces, where 27 are required by ordinance. No new signage is proposed at this time.

Kain noted that there are a few issues with sidewalks and greenbelt that need to be addressed. The sidewalk along that stretch of Pickard stops at the asphalt drive access and picks up on the other side of the site. The applicant has proposed removing an existing asphalt drive aisle that is located in the City right-of-way to be replaced with curb, gutter and greenbelt, which will narrow the east drive to the 30' permitted by Ordinance. However, City specifications call for a concrete sidewalk to continue through driveways, and the Division of Public Works (DPW) has included this as a condition of approval. In addition, a portion of the northwesterly drive is located on property owned by the Railroad, which is leased by the applicant. It has been requested that a portion of this asphalt be removed to allow for additional greenbelt and to help facilitate narrowing of the western driveway to the 30' maximum permitted by code. The applicant has indicated that the Railroad will not allow this; however, the applicant has not provided any documentation from the RR to this effect. Kain noted that the PC may want to consider letting staff work out a resolution with the applicant.

Kain reported that the location of the proposed dumpster sits on the city's storm sewer and DPW has asked that it be relocated. Kain indicated that he would work with the applicant to make sure that condition is met.

Kain noted that the PC is also being asked to make a determination that the use is of the same general character as the allowed uses in the I-1 district.

Commissioner Kostrzewa asked if a motion to approve should include allowing a greenbelt in lieu of a wall. Kain noted that this would be implicit with approval of the site plan which shows a greenbelt. Commissioner Ranzenberger commented that a wall at that location would be out of place.

Tim Bebee, Central Michigan Surveying and Development, addressed the Board on behalf of the applicant. Mr. Bebee reiterated that a portion of the asphalt that the city would like removed is on RR property and the applicant's attempts to work with the railroad have not been successful. Mr. Bebee indicated they are willing to work with staff to get this resolved; however, the lease only gives access for parking; not anything else.

Commissioner Kostrzewa asked how much area we are talking about. Mr. Bebee stated that there is a strip the entire length of the property. The applicant has held a lease on the property for a long time and the asphalt has been there over 20 years. Mr. Bebee indicated that the city approved the widening of the driveway at the Railroad's request to allow them to bring in large equipment when needed. Mr. Bebee stated that the applicant is doing several things to bring the site into compliance, however, again stated that they are having trouble getting any response from the RR.

Mr. Bebee spoke of DPW's request to put sidewalks through the asphalt drive aisles, noting that the applicant would prefer not to as he doesn't feel it makes sense to take out an existing hard surface to put in another hard surface.

Board Discussion:

Discussion ensued on the existing drive aisle located in the Pickard Street right-of-way. Staff indicated that he feels the applicant will still be able to circulate traffic on the site, noting that he would never recommend allowing a drive aisle in the public right-of-way. In regards to the RR property, staff noted his job is to address the codes. If the Planning Commission feels it is not worth continuing discussion with the RR then he is okay with that.

Chairman Cotter commented that he doesn't see how we can make the applicant do something on property that he doesn't own and questioned whether we would have the authority to do so. Kain acknowledged Chairman Cotter's comment; however, noted that the applicant is using the property to meet access and parking, so the city does have that authority. Kain commented that the applicant has shown good faith on bringing the site closer to compliance and if you consider the level of the expansion, the applicant has gone beyond that balance; however, noted that he is hesitant to allow leases to dictate our ordinance. He further commented that elimination of the access lane is a tremendous improvement.

Discussion ensued on the odds that the railroad would allow the change.

Mr. Bebee commented that that portion of the site doesn't impact anything else they are doing and suggested other elements of the project could move forward. Kain agreed, nothing that we could tie the resolution to a timeline or a Certificate of Occupancy (C of O) to the building.

Kain suggested sending a certified letter with a return receipt to the RR with a timeline attached. If we request it and the RR won't agree, then the PC could reconsider; however, we haven't actually seen anything from the RR. Discussion ensued on timelines and seasonal construction-related issues.

The Board discussed tearing out the existing asphalt to put in concrete sidewalks. Chairman Cotter questioned whether the Board would have any reason to waive this requirement from DPW. Kain commented that the rationale is that concrete is more durable. In addition, he noted that when cars are pulling out of a site, they are more apt to yield if there is a sidewalk than if there isn't. He further commented that it would not actually be a waiver as it isn't explicitly required by Ordinance, but is a specification in the DPW manual and was therefore requested by DPW. Commissioner Horgan expressed concern over setting a precedent. Kain commented that this is a unique circumstance as the applicant is narrowing the existing driveway, not constructing a new one. If the drive was being newly constructed then there would be no reason to not make them put in the sidewalk.

Kain reviewed several improvements being made to the site, such as: greenbelt in front of the site; elimination of an illegal maneuvering lane; elimination of vehicle storage outside; and a greenbelt along the Chippewa River.

Chairman Cotter commented that he doesn't like making someone do something that is not required, especially if it doesn't make sense. Commissioner Kostrzewa agreed, commenting that he feels the existing hard surface is acceptable.

Motion by Dailey, support by Friedrich that the Planning Commission approve SPR-15-10 with the following conditions:

1. The Topographic Survey and Demolition Plan sheet shall be updated to remove the erroneous "City of Mt. Pleasant Lease Area" label.
2. The applicant shall by certified mail to the railroad request a finding in writing that the greenbelt within the lease area may or may not be constructed. The letter shall be sent within 10 days of this motion and response shall be requested to the City within 90 days. If no response is received or the railroad responds in the negative the requirement shall be waived. If the railroad responds in the positive, the greenbelt shall be implemented prior to the issuance of a Certificate of Occupancy.
3. The applicant shall comply with the requirements of the Divisions of Public Works (DPW) and Public Safety (DPS).

Motion by Ranzenberger, support by Kostrzewa to amend condition #3 to read:

3. The applicant shall comply with the requirements of the Divisions of Public Works (DPW) and Public Safety (DPS) with the exception of the condition to extend the sidewalk through the existing driveways.

Motion to amend condition #3:

Ayes: Cotter, Hoenig, Horgan, Irwin, Kostrzewa, Ranzenberger. Nays: Dailey, Friedrich.

Amendment approved 6:2.

Motion to approve SPR-15-10 with the following conditions:

1. The Topographic Survey and Demolition Plan sheet shall be updated to remove the erroneous "City of Mt. Pleasant Lease Area" label.
2. The applicant shall by certified mail to the railroad request a finding in writing that the greenbelt within the lease area may or may not be constructed. The letter shall be sent within 10 days of this motion and response shall be requested to the City within 90 days. If no response is received or the railroad responds in the negative the requirement shall be waived. If the railroad responds in the positive, the greenbelt shall be implemented prior to the issuance of a Certificate of Occupancy.
3. The applicant shall comply with the requirements of the Divisions of Public Works (DPW) and Public Safety (DPS) with the exception of the condition to extend the sidewalk through the existing driveways.

Motion approved unanimously.

Motion by Ranzenberger, support by Hoenig that the Planning Commission find that the current and proposed use as an auto body repair shop is of the same general character as the allowed uses in the I-1 District.

Motion approved unanimously.

IX. Unfinished Business:

A. TC-15-07 - Discuss and consider a text change to Section 154.021 (Fences or Walls).

Kain reviewed the background of this request noting the widespread examples of fences that do not meet the current zoning ordinance. In addition, he noted that when there is a history of several variances being issued for the same issue, it is generally time to look at the zoning ordinance to see if a change is warranted.

Kain noted that the issues that applicants generally cite as reasons for requesting a variance include privacy, security and the containment of children and pets. Kain commented that the types of fencing materials readily available generally do not conform to the 3' height restriction for front yards, with typical fencing materials being 42-48" tall.

Kain noted that based on the discussion from the last couple of meetings he has put together some proposed ordinance language for the PC to consider. If the PC feels that the language is ready, then they should set a public hearing for the October 1, 2015 meeting.

Kain reviewed the proposed changes, which include allowing up to a 6' fence in side street yards provided they are set back 1' from the property line and only 50% solid over 5' tall. In addition, the change would allow 4' tall fences, not more than 75% solid in front yards.

Commissioner Kostrzewa asked if the existing non-conforming fences would be grandfathered in. Kain indicated they would.

Motion by Kostrzewa, support by Dailey that the Planning Commission set a public hearing to consider a text change to Section 154.021(A) of the zoning ordinance at the Planning Commission meeting on Thursday, October 1, 2015 at 7:00 p.m. in the City Hall Commission Chambers.

Motion approved unanimously.

B. TC-15-08 - Discuss and consider a text change to Section 154.095.

Kain provided background for the proposed text change, referring to the addition to the zoning ordinance in 2013 which created the University District. Kain noted that at the time the district was created there was no thought given on how to handle setbacks from properties in other zoning districts that abut the new district.

The City recently received a formal request from Central Michigan University asking the City to consider a minimum setback of 10' for properties abutting the U District.

Kain noted that many of the zoning districts don't permit a side or rear setback of less than 10' under current standards. Other districts require less than a 10' setback with others not requiring any setback at all.

Kain explained that the amendment would require properties that abut the U zoning district to maintain a minimum setback of the district setback or 10' whichever is greater. Districts that already exceed the 10' setback requirement will not be affected by the amendment.

Kain shared a map showing all properties abutting the U District. It was noted that existing sites that encroach on the new setback requirements would become non-conforming. Kain noted that if the Planning Commission is comfortable with the proposed text change, they should set a public hearing for the October meeting.

Motion by Horgan, support by Kostrzewa, that the Planning Commission set a public hearing to consider a text change to Section 154.095 of the zoning ordinance at the Planning Commission meeting on Thursday, October 1, 2015 at 7:00 p.m. in the City Hall Commission Chambers.

Motion approved unanimously.

C. TC-15-09 - Discuss and consider a text change to Sections 154.162, 154.163, 154.164, 154.165, 154.66, and 154.171 of the zoning ordinance.

Kain explained that following two recent appeals that went to the ZBA, the CC asked that the City Attorney review and make recommendations to address confusing language regarding the ZBA, particularly regarding filing a request. The attorney has completed his review and provided a recommendation. As with all text changes, the PC reviews the proposed text change and then makes a recommendation to the City Commission.

Kain reviewed the proposed changes and noted that per a memo from the City Attorney they have primarily intended to clarify procedures and standards applied by the ZBA for different matters. The amendment would:

1. Eliminate outdated language, making it easier to read and to be more consistent with the Zoning Enabling Act.
2. Clarify the three district types of matters heard by the ZBA:
 - a. Appeals from PC or other zoning officials;
 - b. Variance requests;
 - c. Advisory opinions interpreting the zoning ordinance.
3. Explain the standard of review;
4. Specify who can file applications;
5. Clarify authority.

After reviewing the proposed changes, Kain offered to invite the City Attorney to the next meeting to answer any questions if the Board felt it was necessary. Otherwise, if the PC is comfortable with the proposed text change, they will need to set a public hearing for the October meeting.

Motion by Kostrzewa, support by Friedrich that the Planning Commission set a public hearing to consider text changes to Sections 154.162, 154.163, 154.164, 154.165, 154.166, and 154.171 at the Planning Commission meeting on Thursday, October 1, 2015 at 7:00 p.m. in the City Hall Commission Chambers.

Motion approved unanimously.

XI. Other:

A. Administrative Review Report - SPR-15-17 - 1907 S. Mission

Kain reported that the first request to be approved through administrative review was to allow a new driveway connection from ABC Warehouse onto Evans Drive.

B. October Meeting:

Kain reported that there will be several public hearings at the October meeting. Three public hearings for proposed text changes; two M-2 redevelopments and a project that will be coming in under the Mission Redevelopment Overlay Zone. Deadline for submittals is Tuesday, September 8, 2015.

Kain referred to the tentative plans to hold a joint work session with the ZBA prior to their October 28, 2015 meeting. He noted that regardless of the outcome at the September 28, 2015 City Commission meeting regarding the proposed M-2 text change, he feels it would be valuable for the groups to meet together to discuss. The PC will need to make a motion at the next meeting to set the work session.

XII. Adjournment:

Motion by Kostrzewa, support by Friedrich, to adjourn.

Motion approved unanimously.

Meeting adjourned at 8:57 p.m.

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