

**City of South Lyon
Planning Commission Meeting**

April 22, 2010

Chairman Weipert called the meeting to order at 7:05 p.m.

All present recited the Pledge of Allegiance to the Flag

PRESENT: Commissioners Chubb, Kurtzweil, Mosier, Weipert, Bradley, Culbertson, Lanam and Leimbach. There was one vacancy.

Also present were Ben Tallerico (Planning Consultant), and Kristen Delaney, Director of Community and Economic Development.

APPROVAL OF AGENDA:

Motion by Mosier, supported by Leimbach

To approve the Agenda April 22, 2010.

VOTE

MOTION CARRIED UNANIMOUSLY

APPROVAL OF MINUTES:

Motion by Bradley, supported by Culbertson

To approve the Minutes for April 8, 2010 as amended.

VOTE

MOTION CARRIED UNANIMOUSLY

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

Oakland 40 Rezoning/Contract Zoning

Tallerico met with Parvin Lee, Susan Friedlaender and Ron Cook to discuss options. The conclusion was to pursue the R2 with cluster option with a specific number of homes built within five years. There were not a lot of details. Tallerico suggested a deadline to provide specifics. The decision was made to have another public hearing on May 13th. The Planning Commission should have something to review before then.

Weipert asked what happens if the developer and City find that the contract is not feasible to build. Tallerico replied there were options. Weipert noted that what the developer is offering was becoming denser. In 1999 they wanted R1 with big homes, now they want R2 with cluster option on a parcel with five acres of wetland. Tallerico stated they would take the wetlands out of the calculations. One of the issues was it would be hard to defend traditional plans. Mill Street was pretty industrial. The question remains would the parcel have a better chance to be developed as residential. Weipert stated maybe they had enough time to try to develop it as industrial if they were going to. Mosier stated it seemed the previous plan for industrial was designed to scare the neighboring residents. A feasible plan for industrial has not been proposed.

Tallerico stated if the applicant provides the necessary information to Ms. Delaney in time it would go to a public hearing. There was no way to know how City Council would vote.

Culbertson asked if they would have the conditions for the contract. Tallerico replied it must be offered by the applicant. The applicant was informed the Planning Commission prefers a more traditional design.

There was a general discussion regarding the rules of contract zoning. Tallerico had a concern with the length of time presented. If there was a demand for housing then why would they need ten years to build? Weipert asked if the Planning Commission could list conditions for the contract zoning. Tallerico replied they could state the concerns instead.

Leimbach stated this was a one-sided contract. The developer can say “no” to concerns and “no” to negotiations. His concern was whether or not he would like to live next to the development. Tallerico stated in his opinion contract zoning should not be an option allowed in the zoning law. It should be illegal to state conditions. He did not like it but it was law, so the proposal must be entertained. Leimbach replied he would not vote for it. Tallerico stated if the developer could meet R2 standards it would probably be less dense once the wetlands were taken out.

Leimbach asked if the developer was requesting rezoning for R2. Tallerico replied it was a rezoning but done through contract. Leimbach asked if they had to present a plan with rezoning. Tallerico replied it had been discussed. Lanam stated he thought the idea with contract zoning was to layout a design in detail on a property that would not fit the master plan (?). Tallerico replied it had not been done to that level. Leimbach asked since the City could not negotiate, what is the point? Lanam noted the City could only say “yes” or “no” to their proposal.

Weipert stated the problem was what had been proposed was not the best. Weipert noted Mr. Lee spoke to the developers and the city administrator but did not think the full Council was aware of this happening. Lanam asked who enters into the negotiation. Weipert answered City Council. Lanam stated if the applicant stands firm then it would seem they were only looking to go to court, otherwise the applicant would have

resubmitted what was last submitted in 2008.

Tallerico stated the big question was if the property would work as R2. Lanam asked whether a contract was worked out or it went to court and ended up R2 would the plans come back to the Commission. Tallerico replied he assumed so but they would be looking at the minimum standards. Leimbach asked what if the contract has exceptions written into it. Tallerico stated the city would need to make sure it was written as R2 with special conditions. Culbertson stated however rezoning happens it would have to meet R1, R2, or cluster. Tallerico replied only if it was stated in the contract. Culbertson noted he could not imagine Council would approve a contract without that as a minimum. Tallerico noted he believes the applicant would have trouble meeting R2 cluster as currently proposed.

There was a general conversation regarding wetland requirements.

Chubb stated he would like to divorce the site plan from other options because it would give the developer leverage to come back with that proposal. He suggested sticking with the ordinance then have the applicant come back with a plan. Bradley, Lanam, and Culbertson agreed.

Weipert asked why they were spending all this time when no one knows what Council would do. Tallerico replied this did not have to come to the Planning Commission. The city manager and city's attorney wanted it here first.

Mosier noted they had won lawsuits before because of the Master Plan.

There was a general discussion regarding site plans and topography of property.

Culbertson stated he hoped the contract would be R1, R2 and/or cluster with number of roads and no specific plans. In his opinion the site would not be developed as industrial.

Chubb asked if the date of completion was in accordance with the last certificate of occupancy or when the permits have been pulled. Tallerico noted that was his biggest concern and one the Planning Commission could voice.

Lanam stated whether contract zoning or not, the Master Plan needed to be protected. He asked if the city enters contract zoning would it protect their position. Tallerico replied in his opinion it would weaken the Plan because it would be a use variance.

Lanam noted the sketch the applicant presented should be part of the contract. Tallerico suggested Ms. Delaney speak with Mr. Lee. Chubb stated he would not vote for approval if a plan was involved. Bradley agreed. Leimbach noted it must meet ordinance standards. Weipert stated ultimately it would be up to City Council. Delaney noted there were some strong opinions but this was not a done deal.

Kurtzweil stated she was not in favor of approval and was bothered that Chairperson

Weipert was not involved in the discussions. Tallerico replied she had been involved just not in the last meeting. Kurtzweil stated she should be included in every meeting for this process. All the people in the last meeting do not live in the city. For that reason alone, Ms. Weipert should be included. Tallerico stated that could be a recommendation for a condition.

Kurtzweil suggested that any change in ordinances during the length of the contract would have to be met.

Kurtzweil questioned the need for more residential. She noted that commercial real estate from European commercial developers was what was in demand. She believes the applicant has not taken advantage of marketing the property. She feels the applicant was here in bad faith, although she had no evidence of this. It was her opinion the site should remain zoned industrial. Bradley agreed there were uses that could work on that site. Tallerico stated it could be an office building.

There was a general discussion regarding office use and the need for it.

Lanam stated his concern was that without Ms. Weipert present before City Council votes there could be a “yes” vote out of fear of legal action. Weipert stated it was her understanding that Council would have a private session with Parvin Lee and herself there to discuss in detail what the contract zoning entails.

Weipert did not know if the City Council would go along with the recommendation from Mr. Lee. Mr. Lee is leading the way.

Leimbach asked to have Mr. Lee present for the public hearing. Tallerico noted he suggested that also. Kurtzweil stated she did not have a lot of confidence that Parvin Lee could handle this. She believes the City should appoint a special attorney for this process. She was upset that Mr. Lee was negotiating this when he could be called as a witness.

Motion by Leimbach, supported by Bradley

To request the city’s attorney, Parvin Lee, be present at the public hearing.

VOTE

SEVEN IN FAVOR. ONE OPPOSED.

Blight (Vacant, Abandoned, and Foreclosed Structure Registry)

Delaney reviewed the changes made to the proposed ordinance.

Weipert asked if there was any discussion.

Motion by Bradley, supported by Lanam

To hold a public hearing during May’s second meeting, May 27, 2010.

VOTE

MOTION CARRIED UNANIMOUSLY

Medical Marijuana Dispensary Ordinance

Delaney stated she had not heard back from the city's attorney. Tallerico stated regulations would be to cover people who grow up to sixty plants for up to five people. If they did not want it at all then it would only take one sentence and the city attorney's signature.

Culbertson asked what the police department's opinion was. Delaney replied she had not spoken with the police chief yet but she would not be surprised if he was the reason the City Manager requested the Planning Commission look into this. She also noted that Lyon Township was working toward not allowing dispensaries.

Chubb asked if that would be a business. Tallerico asked if he meant was it a revenue producer. He did not know. Weipert asked why anyone would not want it.

There was a general discussion regarding the pros and cons.

Bradley asked if people could use at the dispensary. Tallerico replied no. Lanam stated the problem he had was he did not know of any business that could survive off of five clients.

Tallerico stated the question was did they want to regulate it by ordinance or wait for it to be legal. Weipert stated if it would be allowed then it needed to be regulated. The Planning Commissioners agreed.

Planning Commission Election of Officers

Motion by Mosier, supported by Leimbach

To keep the Officers of the Planning Commission the same.

VOTE

MOTION CARRIED UNANIMOUSLY

NEW BUSINESS

There was no new business.

TABLED ITEMS

Annual Retreat

Wind Energy Ordinance

Weipert noted the new edition of “Michigan Planner” has information on wind energy.

STAFF REPORTS

Delaney provided updates on the Farmer’s Market, Parks and Recreation meeting, and the Chamber and Downtown Development Authority event.

ADJOURNMENT

Motion by Culbertson supported by Bradley

To adjourn the meeting at 9:01 p.m.

VOTE

MOTION CARRIED UNANIMOUSLY

Pam Weipert, Chairperson

Jennifer Knapp, Recording Secretary

Keith Bradley, Secretary