

**City of South Lyon
Planning Commission Meeting**

September 24, 2009

Chairman Weipert called the meeting to order at 7:01 p.m.

All present recited the Pledge of Allegiance to the Flag

PRESENT: Commissioners Kurtzweil, Mosier, Weipert, Leimbach, Chubb, Lanam,
Culbertson, Subotich and Bradley.

Also present were Ben Tallerico (Planning Consultant), Joe Veltri, Building and Zoning
Official and Kristen Delaney, Director of Community and Economic Development

APPROVAL OF AGENDA:

**Motion by Mosier, supported by Lanam, to switch the order of the meeting
and address old business before new business.**

To approve the Agenda for September 24, 2009 as amended.

VOTE

MOTION CARRIED UNANIMOUSLY

APPROVAL OF MINUTES:

Motion by Culbertson, supported by Bradley

To approve the Minutes for August 27, 2009 as amended.

VOTE

MOTION CARRIED UNANIMOUSLY

PUBLIC COMMENT

There was no public comment.

NEW BUSINESS

Public Hearing: Revised Landscaping Ordinance
Weipert explained the rules to the audience for the public hearing.

Weipert opened the public hearing at 7:13pm

Brian Harris of South Lyon, MI
Mr. Harris asked if the Commission could explain the change in the landscaping

ordinance. Weipert stated it would require an inspection by a registered landscape architect to make sure the final project is what was approved in the landscape plan.

Harris asked if he were to have a new tree on his property if he would have to meet these requirements. Weipert stated these changes would not affect that situation but there could be other ordinances that he would have follow. Tallerico added all that was changing would be the inspection. Veltri stated this involves commercial work not residential. Kurtzweil suggested Mr. Harris check with his homeowner's association for their rules and requirements.

Harris stated he would not want to have to hire an architect.

Weipert closed the public hearing at 7:17pm.

There was a general discussion regarding the procedure of making the change and Tallerico read the re-worded language in section 102-491 and 102-492.

Weipert asked how long the plantings would be required to live. Veltri replied for one year. Weipert asked what happened if a planting died. Veltri answered they developer would be asked to replace the planting.

Kurtzweil stated her concern was after two or three years when the landscaping could no longer be maintained. Weipert noted section 102.491 stated the landscaping must be reasonably maintained. Kurtzweil asked if anyone though the timeframe should be extended. Leimbach stated he believed one year was standard. Chubb noted most plantings are warranted for one year by the nursery that sold them. Chubb's experience was most people want to maintain them and keep them alive because they invested in them.

Motion by Leimbach, supported by Lanam

To recommend to City Council to amend city ordinance sections 102.491 and 102.492.

VOTE

MOTION CARRIED UNANIMOUSLY

Public Hearing: Special Use Request for 601 Ada Street

Mike Harris of 601 Ada Street

Mr. Harris thanked the Planning Commission for rearranging the agenda and thanked his neighbors for their support. He asked his neighbors on Ada, Hagadorn, and Dorothy to sign a petition in support of his request and presented it to the Planning Commission. He

had been running his business for four years and the trucks have been going in and out with no problems. He never thought there could be a problem. The property had been improved and he provided pictures for the Commissioners. He stated the equipment sits near the fence next to the Department of Public Works so his use did fit there.

Dan Rose of 7052 South Hagadorn

Mr. Rose owns Rose Excavating which is located five-hundred feet from the property in question. He could not see any problem.

Theresa Wood of 608 South Hagadorn

Ms. Wood stated she lived between the applicant and Mr. Rose and could not see any problem.

Ms. Minton of 421 Ada Street

Ms. Minton stated she lived across the street from the applicant and could not see any problem. Everything had been kept clean and they were only trying to make a living.

Brian Harris of South Lyon, MI

Mr. Harris stated he lived right by the property and also could not see a problem.

Weipert closed the public hearing at 7:37pm.

Tallerico stated he received a hand drawn sketch, an aerial photograph and a one page explanation to use for the basis of his review. He reviewed his written comments. With the limited information he could not find any way that the applicants use could fit in the ordinance. He noted the additional information he would like per his review comments.

Weipert asked if he felt a special use in the R3 district should be allowed. Tallerico replied no based on the limited information he had for the evaluation.

Weipert asked Mr. Harris why he requested the special use and not a rezoning. Harris stated that after speaking with Mr. Veltri and reviewing his options this seemed to be the quickest and time had been an issue.

Weipert noted it looked like the applicant was surrounded by light industrial but the area did drift to residential. She asked if the applicant had been doing a little bit of both. Harris replied yes and he felt he could co-habitat because of the size of the parcel; which had been another consideration when requesting the special use.

Weipert stated she did drive back there and it did appear the property had been cleaned up. She noted the city did receive pictures from an anonymous resident which showed the property looking pretty junky. She asked if he also had a visit from the Department of Environment Quality (DEQ). Harris replied yes, he did have a visit from the DEQ inspector who quickly saw the trash on the property had been remnants from when the

land was part of a large farm, which he had been clearing out. The inspector provided him with resources to have the land properly cleaned. Culbertson asked if Mr. Harris had a letter to that affect. Harris replied the only letter he had received was the same letter the Commissioners had a copy of in their packet.

Culbertson asked if a special use were to be permitted if there would be any way to restrict the number of vehicles. Tallerico stated there would be limits on traffic generation but if allowed special use then part of the ordinance had already been disregarded. With a home business he would have a hard time justifying multiple vehicles when he would be the only one who was supposed to be working there. Culbertson stated there was a neighbor running his business out of his house and storing snow removal equipment in his back yard. Tallerico stated based on the ordinance multiple employees would not fit under the permitted uses. Veltri add the other is a one-man operation. Harris stated he was only asking for special use because of the way his parcel of property was positioned.

Subotich stated his only concern would be living within the guidelines. He asked what would be the best option to help Mr. Harris without compromising the city ordinances. Tallerico stated the Zoning Board of Appeals (ZBA) would not allow use variances. He would have to review whether or not the property could be rezoned but it appears it might hold some credit. It could also work to split the lot but he did not know how possible that really could be without more review. Veltri stated if the property would be rezoned then the Mr. Harris would not be allowed to live on the site. Tallerico noted he would have to look closer to see if it could be split. Veltri stated splitting the site would not be possible because the applicant could not land-lock the site or use an easement for access.

Leimbach stated unfortunately what the applicant has been doing could not be allowed but everything around that site which was non-conforming had been grandfathered. He did not know what relief the Commission could provide since it was not permitted under special use. Tallerico stated the issue was the two uses going on at once; the property was a business and a residence. Harris stated mixed use could not be that unusual. Tallerico state that has been mixed use zoning but not usually residential and industrial. Lanam agreed with Commissioner Leimbach. The special use was not permitted in this case.

Kurtzweil noted she had a problem because she was pro-business. Mr. Harris was trying to make a living and support his employees. She was more embarrassed by the Department of Public Works yard. South Lyon did not have a good business base and was getting a reputation for not being pro-business. She suggested changing the ordinance to allow Mr. Harris to continue doing what he had been doing. She noted Rose Landscaping had also been keeping his property better maintained than the Department of Public Works.

Chubb agreed the Department of Public Works property was embarrassing but the way the ordinance was written this use would not be allowed.

There was a general discussion regarding changing the ordinance and what option and limitations would have to be included such as minimum lot size or crafting a specific

ordinance for a particular situation. The discussion also included creating a fair but strict ordinance.

There was a general discussion regarding industrial zoning what could be stored and what could not be stored.

Chubb stated his experience with crafting ordinances was that it could be a slippery slope. He had used them to his own advantage in his own business. Special uses would be subjective so they need to keep that in mind also. Kurtzweil stated she did not think there would be too many other properties that could do this. Tallerico stated because the actual work had been done off-site this could be industrial but there could be a way to write something to make everything work. He noted it must be for the right reason. Chubb added special use sticks with the property not the owner.

Harris stated he just went through something similar with the city of Novi and they recognized the same concerns and found a way to allow him to keep working. Leimbach stated the business was a good thing it just could not fit the current ordinance. Lanam noted they would have to be careful about the guy across town.

Tallerico asked if Mr. Harris would be storing vehicles. Harris explained how he runs his business from his property and clarified he would store equipment. Kurtzweil stated she had heard of ordinances that terminate after a specified number of years. The owner could request renewal at expiration. Tallerico stated he had not heard of that for this type of situation but he would investigate.

Sabrina Harris of 601 Ada Street

Ms. Harris asked to have the special use section of the current ordinance re-read. She then asked if the twenty-five percent or less would be acreage. Veltri replied that referred to the building not the property.

Lanam asked if it would be easier to make the driveway a street. Tallerico stated then you might be able to divide the property.

There was a general discussion regarding the next steps and timeline. Veltri noted the applicant was currently in violation and he would be calling the legal department in the morning. Tallerico stated before notifying the public the Commissioners would want to be well prepared for a public hearing.

Motion by Subotich, supported by Leimbach

To table Special Land Use Request for 601 Ada Street until the next meeting.

VOTE

MOTION CARRIED UNANIMOUSLY

Veltri instructed Mr. Harris to be prepared to cease and desist.

There was a general discussing what would need to be in the ordinance change including the parcel size, number of vehicles, neighboring zones, etc. Tallerico asked Mr. Harris to provide additional information including lot size and the dimension of the driveway. Harris agreed.

OLD BUSINESS

Blight Ordinance

Delaney stated she sent a memorandum explaining she did not have time to follow up on the blight issue and the home registry issue but would follow up in October.

Kurtzweil asked for verification that she did not request that Ms. Delaney remove the home registry issue from the agenda and did not ask her to stop work on the matter. Delaney answered that would be correct.

There was a general discussion regarding the process for the blight ordinance. Delaney would follow up with the city manager.

Weipert asked for the next agenda, under blight, as subcategories, if Ms. Delaney would add home registry and weed ordinance. Delaney agreed.

Wind Energy Ordinance

Veltri stated the inspector meetings would resume in October and would have no updates on this topic until those meetings have begun again.

There was a general discussion regarding adding a table items section to the agenda.

Annual Report

Tallerico apologized for getting the revised draft out earlier. He reviewed the changes made since the last meeting. There was a general discussion regarding who would get the full report versus the summary.

Tallerico noted he would remove the calendar of meetings and add election of officers into the report.

Motion by Bradley supported by Mosier

To accept the document with changes and forward to the city manager.

VOTE

MOTION CARRIED UNANIMOUSLY

By-Laws Update

Tallerico made brief changes and reviewed them. The Commissioners reviewed the revised draft. Tallerico noted the by-laws would be reviewed by the city's attorney.

Weipert asked if they could take the draft home to read more carefully.

Kurtzweil wondered if they should include a reference to the city charter under the explanation of the conflict of interest. The charter would be more specific.

Weipert asked to table the item.

STAFF REPORTS

Delaney reported Pumpkinfest would be the first week in October.

Bradley provided a ZBA update.

ADJOURNMENT

Motion by Bradley supported by Culbertson

To adjourn the meeting at 9:34 p.m.

VOTE

MOTION CARRIED UNANIMOUSLY

Pam Weipert, Chairperson

Jennifer Knapp, Recording Secretary

Keith Bradley, Secretary