

City of Howell
Planning Commission
November 16, 2016
611 E. Grand River Avenue
Howell, MI 48843

The regular meeting of the Planning Commission was called to order by Chairman Streng at 7:00 p.m.

COMMISSIONERS PRESENT: Paul Streng, Maryanne Vukonich, Mayor Nick Proctor, Jan Lobur, Jeanette Ambrose and Erin Britten.

COMMISSIONER ABSENT: Robert Spaulding.

ALSO PRESENT: City Manager Shea Charles, Community Development Director Tim Schmitt and Recording Secretary Deanna Robson.

GUESTS: Patrick Cleary, Dale Reed, Reid Sparks, Mark Alm, and Matt & Amy Schroeder.

APPROVAL OF MINUTES

MOTION by Lobur, SUPPORT by Ambrose, “To approve the October 19, 2016 regular Planning Commission meeting minutes as presented.” MOTION CARRIED (6-0).

CALL TO THE PUBLIC

None.

STAFF REPORT

Timothy Schmitt, Community Development Director, stated that staff would welcome preliminary input from the Planning Commission as it pertains to the development of the Highland Howell property. He noted that it is expected that the property will be developed using a general “pod” layout similar to the previous Ivanhoe Huntley plan. Staff is reviewing Branoff Randle, LLC financials and proposed unit types, and should have a purchase agreement for City Council approval in the next few days.

Mr. Schmitt added that next month the Gould LLC environmental remediation project is expected to be submitted for property near the Livingston County Road Commission building by Thompson Lake in order to prevent environmental hazards from further leeching into the ground water. Contaminants have not yet leached into the lake; the project will involve processing and re-injecting the water back into the ground water. He welcomed technical questions from the Commission.

Staff has continued to monitor the Howell Estates development, and while there have been improvements to the property and better communication with the management company in recent years, many problems remain with vacant structures - which will likely result in staff initiating proceedings to condemn the offending structures.

Commissioner Ambrose inquired about the public hearing for the Gould LLC chemical cleanup and City Manager Charles confirmed that the City received the public notice and the Michigan Department of Environmental Quality approved the public hearing scheduled for November 22nd at Cleary University. Chairman Streng asked about the size of the building that will be utilized for the Gould LLC environmental cleanup and Mr. Schmitt responded that the building will be slightly smaller than an average garage, with double wall concrete block as a sound barrier.

Commissioner Ambrose expressed concern about vehicles, such as service trucks and semi trucks, advertising the businesses which they are parked in front of on or near Grand River. Mr. Schmitt responded that staff would follow up with the property owners. Commissioner Lobur inquired about a car parked in front of a local attorney office, and Mr. Schmitt responded that the car is parked in a legal parking space for the residential tenant in the building.

Mayor Proctor inquired about possible enforcement actions on properties where freestanding signs remain for businesses that have not been in operation for a long period of time, such as the former Sunoco gas station across from the historic courthouse. Mr. Schmitt confirmed that City ordinance requires that signs be removed if there is no business in operation on the property, however, he spoke with the property owners regarding the sign at the former service station at Grand River and West Street who refused to remove the sign and responded via their attorney. He added that Michigan state law may not uphold the City ordinance, but he will conduct some more research. Mayor Proctor requested that staff consult with the City Attorney.

PUBLIC HEARINGS

#16-032 – 1445 MCPHERSON PARK DRIVE – CHEM TREND SIGNS

Chairman Streng opened the public hearing at 7:11 p.m.

Community Development Director Schmitt updated the Commission, stating that the request contains two components: the first is for a ground sign and the second is for two new directional signs. The signs would be placed in the same location as current signage, but would be slightly larger than what is currently permitted in the City. He noted that the Planning Commission has the ability to approve the request; and staff recommends approval based on the nature of the business, the purpose of the signs, topography, and neighboring properties.

Reid Sparks of Chem Trend introduced himself as well as Jim Anderson of Huron Sign Co. and offered to answer any questions. Mayor Proctor inquired if the placement of any of the signs would affect traffic lines of sight and Mr. Anderson responded that they would not hinder any lines of sight and are planned to be constructed outside of the clear vision triangles. Commissioner Lobur asked about illumination of the signs and Mr. Anderson replied that the signs were designed for non-glaring night illumination and will be evenly illuminated internally.

Chairman Streng closed the public hearing at 7:14 p.m.

MOTION by Lobur, SUPPORT by Proctor, “To approve the Special Land Use application (#16-032) for 1445 McPherson Park Drive, parcel id number 4717-35-100-097, to allow for a new freestanding ground sign to be installed that is 52.38 square feet in size, larger than

the 50 feet maximum permitted by ordinance and to allow two proposed directional signs to be 14 square feet in size and four feet, two inches tall, in excess of the ordinance standards. The signs shall be required to meet all other applicable ordinance standards.”
MOTION CARRIED (6-0).

#16-021 – 623 MCCARTHY STREET – SCHROEDER’S BODY SHOP EXPANSION

Chairman Streng opened the public hearing at 7:16 p.m.

Community Development Director Schmitt updated the Commission, stating that the request is for approval of a site plan, Special Land Use and lot combination for a commercial building addition that was constructed without permits or approval. He reviewed pictures of the existing residential home on the property and commercial building addition, noting that the property is zoned I-1 industrial while properties to north are zoned residential. He also provided a brief history of previous building, planning and zoning approvals on the site. In order to be in compliance with the zoning ordinance, the addition should be set back further - it is actually located on the neighboring residential property at 622 Fleming. Business operations in the area of the addition are non-compliant with ordinance standards and staff has received complaints from neighboring property owners and tenants. Staff cannot recommend approval: the addition is not in an appropriate location; it is intruding an industrial use further into a residential area; work is being done within 10 feet of a residential structure; and the existing house is non-conforming. The Board of Zoning Appeals will be required to discuss the request, whether or not it is approved by the Planning Commission.

Chairman Streng inquired and Mr. Schmitt confirmed that no permits were issued for the addition and no inspections were requested or performed by staff, adding that he notified the business owner of all requirements in March 2016 when the work was discovered. Mayor Proctor asked and Mr. Schmitt confirmed that with the construction of the addition there was a break made in the wall between the two structures. Commissioner Ambrose inquired as to the zoning, ownership, location and screening of the house at 622 Fleming Street and Mr. Schmitt responded that the house is zoned I-1 Industrial with a residential use; does not meet current zoning standards - adding an industrial use to a residential property is not typical in zoning; screening was sufficient before the addition, but now does not meet zoning standards because there is no way to effectively screen the industrial building from the residential property to the north.

Matt Schroeder, Schroeder’s Body Shop, stated that the area that the addition now occupies was previously used as a vehicle wash area but not as frequently. He informed the Commission that he constructed the addition after an accident in the body shop when one of his employees drove into the back wall. He began repairing the back wall - initially intending only to repair it and then proceeded to expand the building; he never contacted his insurance company to report the damage; and he believes that all of the work done was up to code. Mr. Schroeder acknowledged that there was no excuse not to apply for a building permit. He added that his father owns the property, while he owns the business residing therein. He further stated that he needs more space for his business and would like to do more work on the Michigan Avenue frontage of his property.

Commissioner Ambrose inquired about the business' hours of operation and why the property owner would like to keep the house, also noting her concern for the neighboring residential structures. Mr. Schroeder responded that his business operates from 8 a.m. until 5 p.m. and is not open on the weekends; the house is his father's retirement income; and he would be willing to stop washing vehicles outside in respect to the surrounding residential properties. He added that he would like to increase the fence height on the side of the neighboring house as resolution to any noise issue. Amy Schroeder, wife of Matt Schroeder, alleged that Matt's father owns property from Michigan Avenue to Dearborn Street; there are only seven houses that would remotely border the business – and three are owned by customers that are happy with the business; the neighboring residence that has issues is close to the property line and the noise would be alleviated by repairing the fence.

Commissioner Lobur asked about the fence and the location where vehicles are being washed. Patrick Cleary, Boss Engineering, noted that there are two fences and Matt Schroeder stated that the duplex and the original building are very close, in fact the corner of the body shop is on the corner of the property line. Mayor Proctor asked Mr. Schroeder why he did not apply for a building permit and Mr. Schroeder replied that the damage to the building occurred right before winter started; he admitted that there was really no good reason for not applying for a permit; and then stated that the main reason was that he went to the shop on a Saturday to repair the damage and started to overbuild, adding that he did not originally have a building plan. He confirmed that the addition had electrical work and fire suppression, but it has not been inspected by the Howell Area Fire Authority. Commissioner Lobur remarked that it sounds like Mr. Schroeder had a plan to which he responded that he bought five acres in Marion Township on Schroeder Park Drive but wants to stay in the City of Howell.

Mayor Proctor noted his appreciation of Mr. Schroeder's business but voiced the importance of obtaining a building permit and the City's responsibility to its residents and customers. Commissioner Lobur expressed her disappointment that a property owner would choose not to follow City rules and would expect the City not to force them to remove an unapproved structure after it has been built, in addition to her concern about the potential hazards to the residence next door due to its proximity to the addition. Mayor Proctor asked if combustibles or welding equipment are being stored in the addition, and Mr. Schroeder responded that they are not stored in the building, adding that the area is only for final inspections, changing tires, cleanup and wiping cars down. Amy Schroeder stated that the building has a firewall and collision work is performed in the other side of the building. Commissioner Ambrose expressed concern about the noise due to the air tools used for tire work inside a metal structure. Mr. Schroeder stated that the structure was constructed with a 2x6 wall insulated with 1.5 inches of styrofoam insulation inside and outside, with an R value of 39. Mrs. Schroeder stated that before the accident the building was so old that the back wall began to detach and decompose; and the sound barrier and appearance has improved due to the construction. Commissioner Ambrose asked if the Schroeder family plans to retain the house for residential purposes but utilize the driveway for business purposes. Mr. Schroeder confirmed, adding that there is additional residential parking on the other side of the house. Commissioner Ambrose voiced concern for future owners of the property and Mr. Schroeder responded that they have combined all of the lots. Commissioner Ambrose asked for confirmation that the lots were already combined and Mr. Cleary responded

that the lot combination was part of the submitted application. Mr. Schroeder stated that the combination is being completed regardless of the status of the application – that his father owns the property and wants the properties combined. Mr. Schmitt added that the Board of Zoning Appeals will have to vote on the lot combination, noting that he is not aware of another dual use property. Chairman Streng stated that he would like to see the business remain in the City, but the business and property owners need to follow the City ordinance.

Dale Reed, 1170 Fox Hills Drive, stated that he owns the neighboring duplex and has made improvements to the residence since he purchased the property. He informed the Commission that he was aware of the neighboring body shop when he purchased the property in 2011, but has smelled paint fumes over the years; recently witnessed recreational vehicle power washing resulting in debris on his property; noted that the workers could see right in the windows of his duplex from their location on top of the recreational vehicles; added that body shop vehicles have damaged his lawn by driving over it; sandblasting is done in an open area of the business; and air hammers are being used to cut metal.

Chairman Streng closed the public hearing at 7:48 p.m.

Mayor Proctor stated that he could not visualize a means to approve the request without a submitted building permit or plans. Commissioner Lobur inquired if removal of the building would be required if the request was not approved. Mr. Schmitt responded that the next step would be review by the Board of Zoning Appeals if the request was denied by the Planning Commission, adding that the applicant could appeal to circuit court and the City may have to file suit to ultimately have the building removed. Chairman Streng noted that the first step in the process should have been a request for site plan approval, followed by submission of a building permit application. He added that the building is an illegal structure where no Certificate of Occupancy was issued; and part of the building would still not be approved and would pose a problem to potential buyers if the owner chose to sell the business and move to another municipality. He informed the applicant of the Planning Commission's responsibility to all of the property owners and residents of the City. Chairman Streng stated that although the business is growing, it is encroaching on the neighboring properties. Because the applicant did not follow proper procedures, the request would be extremely difficult to approve and the next step would be review by the Board of Zoning Appeals.

Discussion followed regarding appropriate action to be taken by the Planning Commission. City Manager Charles stated that staff looked at the analysis and would not recommend approval even if the request was properly submitted due to all of the reasons listed in Mr. Schmitt's report. He added that if the request is denied the applicant has the right to appeal to the Board of Zoning Appeals, noting that the applicant would still need a variance for a Special Land Use and setbacks whether or not the request was approved by the Commission.

MOTION by Vukonich, SUPPORT by Britten, "To deny the site plan and Special Land Use application for 623 McCarthy Street and 622 Fleming Street, parcel ID numbers 17-36-303-068, -070, -086, and -087, a request to allow a new 32x25 square foot addition to be completed at the rear of the building that was built without permits due to the incompatible nature of the industrial use with residential use and that it does not meet applicable setback requirements." Discussion followed

regarding the possibility of a resubmitted application with a site plan that met all current zoning requirements. Mr. Schmitt confirmed that nothing on the current application would meet all of the existing zoning standards. **MOTION CARRIED (6-0).**

Chairman Streng reminded the applicant that the next step available would be submittal to the Board of Zoning Appeals and directed the applicant to work with Community Development Director Schmitt.

NEW BUSINESS

PROPOSED ORDINANCE UPDATES

Community Development Director Schmitt stated that staff has been reviewing and compiling a list of a variety of potential minor ordinance issues, brought up during project discussions and by Council members, that could be addressed in an omnibus ordinance, such as; administrative approvals, site plan extensions, donation bins, food trucks, code enforcement and property maintenance. He asked the Commission to communicate to him any ideas or suggestions for ordinance changes, recommending that the changes be implemented prior to the Spring, and adding that these amendments will be brought to the Planning Commission for approval.

OTHER BUSINESS

MOTION by Proctor, SUPPORT by Ambrose, “To excuse Commissioner Spaulding from the November 16, 2016 Planning Commission meeting.” MOTION CARRIED (6-0).

Chairman Streng wished everyone a Happy Thanksgiving.

MOTION by Vukonich, SUPPORT by Britten, “To adjourn the meeting at 8:11 p.m.” MOTION CARRIED (6-0).

Deanna Robson, Recording Secretary