



MINUTES

**Committee on Development and Planning
Monday, August 21, 2017 @ 4:00 p.m.
Council Conference Room, City Hall 10th Floor**

CALL TO ORDER

Called to order at 4:05 p. m.

PRESENT

Council Member Brown Clarke, Chair
Council Member Yorko, Vice-Chair- left the meeting at 4:57 p.m.
Council Member Houghton, Member
Council Member Hussain, Member

OTHERS PRESENT

Sherrie Boak, Council Staff
Jim Smiertka, City Attorney
Brandon Waddell, Assistant City Attorney
Gregory Venker, Assistant City Attorney
Michael Brogan, Capitol Properties
Susan Stachowiak, Planning and Neighborhood Development
Jon Miles
Kathy Miles
Tom Donaldson
Tiffany Dowling
George Grof, Reid Machinery
Elaine Womboldt
Lance Wimberly

PUBLIC COMMENT

Public Comment was available during each agenda item and at this time. No public comment at this time.

MINUTES

Council Member Hussain stated there was a document that was not attached to the July 17th minutes that he had provided to Staff, so he asked the minutes be tabled again.
Council Member Brown Clarke moved the minutes to the next meeting.

Council Member Hussain noted that Council Member Yorko was not present at the August 7th meeting, so the minutes from that meeting needed to reflect her absence and only 3 members present for the votes. He also noted he had additional comments to add.

Council Member Brown Clarke moved the minutes to the next meeting and asked Council Member Hussain to forward his comments to Council Staff to be included at the next meeting.

DISCUSSION/ACTION

RESOLUTION- Appointment Tom Donaldson; Member Saginaw Street Corridor Improvement Authority; Term Expire June 30, 2019

Mr. Donaldson gave an overview of his career at Lansing Community College, and his role as a small business owner and consultant to other small business owns.

Council Member Hussain asked Law what the role of the Authority was. Mr. Smiertka stated it was an outside authority and not covered under the Charter.

Council Member Yorko spoke in support of Mr. Donaldson, and added that the Authority consists of residents and employees in the Authority area, covered by the State Statue.

MOTION BY COUNCIL MEMBER YORKO TO APPROVE THE APPOINTMENT OF TOM DONALDSON TO THE SAGINAW STREET CORRIDOR IMPROVEMENT AUTHORITY. WITH A TERM TO EXPIRE JUNE 30L, 2019. MOTION CARRIED 4-0.

Mr. Smiertka stated to Council Member Hussain the Statue and any Articles or By-Laws can be provided to him

RESOLUTION – Request for Extension of NEZ Certification No. 2007-0092; Capitol Properties, LLC

Council Staff distributed the most recent draft resolutions from the City Attorney office which now included the words “successors”, the correct address of “222 S. Washington” and “BE IT FINALLY RESLOVED, that the City Clerk provide three certified copies of this resolution to the Lansing Economic Development Corporation for submission of this action to the State Tax Commission.” Mr. Waddell noted that when the resolutions were passed in 2016 there were two separate sites, but since then it has been combined into one address, 222 S. Washington which is what the State Certifications state.

Council Member Yorko acknowledged she had spoken to the applicant in the past, along with LEAP and Law, and was informed that if this was passed by Council it could set a standard for others to request an extension. Mr. Smiertka confirmed that he was not aware of any other NEZ Certificates out there, and it would not be taking advantage of the Statue, but aligning it.

Mr. Brogan provided history on the Certificate, which he stated was started and issued in 2005, but then the State changed the Statue in 2006 on the time frame, and never let the owners aware of it. The owners did pay the taxes in 2016 because of the change, but would like to amend it now for the next years in the extension bringing them to 2020 before they pay again.

MOTION BY COUNCIL MEMBER HOUGHTON TO APPROVE THE EXTENSION TO THE NEZ CERTIFICATE FOR CAPITOL PROPERITES FOR 222 S WASHINGTON UNITS #3 & #5.
MOTION CARRIED 4-0.

MOTION BY COUNCIL MEMBER HOUGHTON TO APPROVE THE EXTENSION TO THE NEZ CERTIFICATE FOR CAPITOL PROPERTIES FOR 222 S WASHINGTON UNITS # 4 & # 6.
MOTION CARRIED 4-0.

ORDINANCE – Z-4-2017; 1219 Victor Avenue; B Residential to C Residential

Council Member Yorko informed the Committee she had spoken to residents in the area who support the rezoning and project, but told her they did not want to attend the public hearing because they felt there could be a confrontation with their neighbors who were against it.

Council Member Hussain informed the Committee he also spoke to a resident who supported it, but he also received phone calls and email against it. Council Member Hussain noted he had attended a neighborhood meeting on the subject and the majority spoke against it. He also noted a past meeting where he heard it stated the owner does not want to move forward with single family because it abuts the industrial area and not be able to rent. Council Member Brown Clarke stated that her understanding from the meetings on the topic was that it was more marketable as duplexes which allowed for more green space with the required setback, and they would have to rent one side because it is a duplex. Council Member Hussain stated he did not support the rezoning. Council Member Brown Clarke acknowledged Council Member Hussain's comments, but reiterated that rentals can occur with single family or duplexes. Council Member Hussain then stated a concern he had with what appeared to him to be "spot zoning", and provided an example in the south side of the 3rd Ward where there are duplexes and the issues he hears about. He would not support the rezoning because he wished for it to be consistent with the land use.

Council Member Houghton informed the Committee she had spoken to one resident in Colonial Village, and they informed her they were fine with it either way, and then asked Ms. Stachowiak to define "spot zoning".

Ms. Stachowiak stated "spot zoning" would be where they would consider rezoning one parcel C Residential where there are no others nearby, but in this case it represents a transitional pattern, which is an acceptable practice, from industrial to the South, wholesale to the North, and higher density residential. Again she stated the proposal represents a good transitional zoning. Staff could have made a case either way and staff and the Planning Board both recommend approval. Mr. Smiertka added to the definition of "spot zoning" stating it is when amendments create a small zone within a large zone of a different zoning.

Council Member Brown Clarke noted that as it relates to renters, that specific should not be considered when rezoning because renters choose to rent and not own does not make or create an issue, traffic, or nuisance. Council Member Hussain stated he thought he heard when the applicant introduced the proposal to rezone that they were concerned with keeping them single family to rent, so they wanted make them duplexes because it would be easier to rent. He added that himself had no issues with renters, and was not opposing the rezoning because they would be rentals. There was continued discussion with Committee members on rentals and renters. Ms. Stachowiak inserted into the discussion that at an earlier meeting she was asked how many homes in the area were currently rentals, and she confirmed that within 300ft of the property there are 34 residential homes, and 8 are rentals.

Ms. Miles stated she was not sure of which would be better in her opinion, but she was concerned with the size of the lots at 30'. Ms. Stachowiak informed her that the minimum house size is 20' and will meet the required setbacks. The lots are the same size as the platted lots in the rest of the residential neighborhood. She then referenced the map in the packet noting the

size of the lots, and provided an example of spot zoning in the middle of the neighborhood. With duplexes there is more area for parking, and green space.

Ms. Miles asked if the applicant had plans to preserve any trees, and Ms. Stachowiak acknowledged she had not heard anything, but it was not conditional that he does.

MOTION BY COUNCIL MEMBER YORKO TO APPROVE THE ORDINANCE FOR Z-4-2017, THE REZONING OF THE VACANT PARCEL AT 1219 VICTOR AVENUE FROM B RESIDENTIAL TO C RESIDENTIAL. MOTION CARRIED 3-1.

RESOLUTION – Appointment Tiffany Dowling; Business Owner Saginaw Street Corridor Improvement Authority; Term Expire June 30, 2020

Ms. Dowling stated her interest in sitting on the Board and her role in the community as an owner of 4 buildings at Seymour and Saginaw.

Council Member Yorko spoke in support of the appointment and her role in the area.

MOTION BY COUNCIL MEMBER YORKO TO APPROVE THE APPOINTMENT OF TIFFANY DOWLING TO THE SAGINAW STREET CORRIDOR IMPROVEMENT AUTHORITY. MOTION CARRIED 4-0.

DISCUSSION – City Attorney Update on Committee Contingencies to Developers

Council Member Brown Clarke recapped the request from the last meeting where Law was asked to research if the Committee can ask the developer to meet with the public for input or work with neighborhood associations, and if so what that requirement would look like, and can the Committee hold the developer accountable to do it. She asked Law for direction to move forward with the Committee in the future so the same expectations are part of the approval process.

Mr. Smiertka noted that in the general law on rezoning, there are many factors and no formula. The Committee can look at the current Master Plan, is the rezoning consistent with the general area, is it consistent with the general land use, is it a suitable use in the District, are there public service adequate in the area to service the use, what is the traffic impact, what does the Planning Board recommend, is there another reasonable use in the current zoning, is there a particular need in the public, what is the effect on surrounding property, will it change the condition in the general area after the rezoning, and will it cause defacement in the area. Citizen opposition comes into the mix he stated, however requiring the developer to do so would be a considered a condition and conditional rezoning has to be proposed by the developer.

Ms. Stachowiak confirmed the contract zoning or conditional zoning has to be proposed by the applicant, and the City cannot impose conditions as leverage. In 2004 the State did give cities the authority to do conditional zoning, which was done with property at Cedar and Syringa where the applicant proposed and agreed on certain uses not being permitted. Since that time the City has seen 20 other conditional rezoning.

Council Member Brown Clarke reiterated her intent to find direction so it can be consistent with every applicant no matter who sits on the Committee.

Council Member Yorko stepped away from the meeting at 4:49 p.m.

Mr. Smiertka offered to provide copies of the language he read from in the Customary Michigan Zoning and Planning book.

The Committee then asked what other models they could consider for public input, and possibly a guide sheet for all future Committee members so they are aware of what to consider.

Council Member Yorko returned to the meeting at 4:51 p.m.

Mr. Smiertka asked Ms. Stachowiak their guidelines for posting notices. Ms. Stachowiak confirmed they follow the State Zoning Enabling Act, which requires them to notify owner and occupants within 300', however they extend it to 350'. She did note she was aware that some communities post signs on the property which is being proposed to be rezoned to make anyone driving or walking by aware. Mr. Smiertka stated the Committee could articulate in an ordinance that a sign has to be posted.

Council Member Yorko asked if the specifics noted earlier by Mr. Smiertka only applied to rezoning or to incentives also. Mr. Smiertka confirmed he spoke on zoning, but the same can be applied to incentives. Council Member Yorko then recapped what she heard being it is acceptable for the Committee to ask, but not acceptable to make a condition.

Council Member Brown Clarke asked the Committee to consider a formal document of best practice for these items.

Council Member Hussain then asked Law if the Committee asked the developer to reach out, they go through the due process, and then when it comes time to vote for passage, can the Committee use the fact that the applicant has unpaid taxes, or a code violation as a reason not to move forward, and if so could Council be defended in court on that. Mr. Smiertka answered that unpaid taxes, and previous violations are not recognized by Law, but if Council is listening to the neighborhood and hearing items of concern then they themselves have that that knowledge when they make their decision on their vote.

Council Member Hussain asked Law if a hearing held 2 years ago satisfies the requirement, noting that some people in the area of the notice could have moved in that time. Mr. Smiertka stated each application would have to be looked at case by case, and if in that length of time there were significant changes, the scope of the development had changed or any drastic changes were made they would consider another hearing.

Council Member Yorko left the meeting at 4:57 p.m.

Council Member Hussain asked for an example of significant changes. Mr. Smiertka answered they consider a land use change drastic, but again reiterated it would be case by case, and if there were no substantive changes it wouldn't need another hearing.

Council Member Brown Clarke determined the Committee will work on the best practices moving forward.

Ms. Miles supported placement of a sign on property proposed to be rezoning, then asked a question to Law, that if a developer owes taxes and there are code violations, if a rezoning can be passed without correcting the violations or paying the taxes. Mr. Smiertka confirmed that in general zoning law does not consider those. Ms. Stachowiak added that there is nothing in the application process or the zoning ordinance that requires it either. She also noted that zoning is

tied to the property not the owner. Mr. Smiertka did point out that if the application becomes a contract, the applicant cannot be in default to the City.

Ms. Miles submitted a written statement from Ms. Kenfield with Colonial Village for the record. This was in response to a statement at the last meeting that Ms. Miles stated she would verify in writing from Ms. Kenfield.

Ms. Womboldt spoke in support of the neighborhood and her wish to work with the developers to come up with an agreeable plan.

Council Member Brown Clarke acknowledged the comments and noted to the Committee that the Committee cannot hold back on its recommendations, and is seeking clarification from Law on moving forward what the process can be. As for posting a rezoning, Mr. Smiertka stated an ordinance can be done to direct staff to post a sign, and Ms. Stachowiak also offered to reach out to her Director, at which point Council Member Brown Clarke asked Ms. Stachowiak to update Council Staff.

Council Member Hussain asked Council Member Brown Clarke why she kept pulling the rezoning request for 3001 S. Washington off the Council agenda the night of the meetings. After clarification from Law, Council Member Brown Clarke stated she had because notification from Law was a cease and desist letter was sent and it was being reviewed and verified by Law if it was open before the moratorium went into effect. At this point Ms. Stachowiak added that the use was never allowed even before the moratorium because it abuts the Buddhist Temple which is 100% illegal. Council Member Brown Clarke asked Law to take the actions to close the dispensary at that location, and informed the Committee that she would not be placing it on the Council agenda again until verification from Law it has been addressed.

Adjourn at 5:13 p.m.

Submitted by, Sherrie Boak,

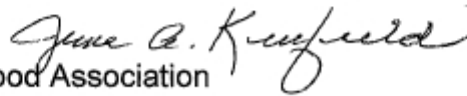
Recording Secretary,

Lansing City Council

Approved by the Committee on September 18, 2017

TO: Lansing City Council
Committee on Development and Planning

FROM: June Kenfield, President
Colonial Village Neighborhood Association



DATE: August 21, 2017

On July 11, 2017 I was contacted by Randy Yono regarding his request for rezoning at 930 West Holmes Road. He briefly explained his plans for the property and I asked several questions.

Subsequently I learned that Mr. Yono stated to your committee that I had refused to meet with him. I have no recollection of any discussion about a meeting and there is nothing about a meeting included in the notes I wrote immediately after the phone call.

To clarify my current position, I don't remember a time that I turned down an opportunity to learn more about an issue of interest. If Mr. Yono wishes to hold a meeting, I will plan to attend.

RECEIVED

AUG 21 2017

LANSING CITY COUNCIL