

CITY OF BURTON
REGULAR PLANNING COMMISSION MEETING MINUTES
FEBRUARY 13, 2001, 6:00 P.M., COUNCIL CHAMBERS

The Regular Meeting was called to order by Jerry Grantner, Chairman, at 6:00 P.M.

MEMBERS PRESENT: Bertram, Brawner, Grantner, Hohloch, Perez, Walls, White and Young.

MEMBERS ABSENT: Mayor Charles Smiley.

OTHERS PRESENT: J. Major, DPW Director and C. Ladd, Deputy City Clerk.

A. APPROVAL AND AUTHORIZE THE MINUTES OF THE FOLLOWING MEETING(S):

Young moved and Bertram seconded the following motion:

Approve and authorize the Regular Meeting of January 9, 2001 at 6:00 P.M., as printed. Motion carried 8-0.

B. SCHEDULE PUBLIC HEARINGS FOR MARCH 13, 2001 AT 6:00 P.M.:

1. LS #01-08

BY: Agree Realty Corporation
Attn: David Prueter
31850 Northwestern Hwy.
Farmington Hills, MI 48334

RE: Parcel #59-31-100-026
Section 31

FOR: Commercial Use.

2. ZC #259

BY: Blake Rizzo
5273 Empress Drive
Grand Blanc, MI 48439

RE: Parcel No: 59-25-200-009, 59-25-300-001,
59-25-300-001, 59-25-400-010, 59-25-100-003
Section 25
Zoned SE Suburban Estates to R-1B Residential

FOR: Single Family Development

3. ZC #260

BY: Alan Reno
1088 W. Vienna Rd.. PO Box 370
Clio, MI 48420

RE: 2026 Covert Rd.
Lot 73, except the East 201 feet, Hammond
Homesites No. 2, Section 3
Zoned R-1B Residential to C-2 Commercial

FOR: Offices and Parking

Moved by Young, seconded by Bertram to schedule Lot Split #01-08, Zoning Case #259 and Zoning Case #260 for public hearings on March 13, 2001 at 6:00 P.M. Motion carried 8-0.

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C. PUBLIC HEARING(S):

1. LS #00-60

BY: Roscoe J. Clark
1272 Gram St.
Burton, MI 48529

RE: Parcel #59-31-400-041
West end of Proper Street
Section 31

FOR: Residential Use.

Duane Haskins, 1172 Tanglewood, Burton, MI, said he is representing Mr. Clark as he could not attend the meeting this evening. Mr. Clark has someone who wants to buy the parcels from him.

There was no one in the audience who wished to speak.

Mr. Major commented the split would enhance the lot size in the R-1C district and DPW recommends approval.

Mr. Perez inquired whether or not the area is wet and if the lot is buildable.

Mr. Major said no consideration was given to whether it was wet. If they want to build in there, that is their decision. The lot is buildable, but they may have some filling problems and soil problems, which would be addressed at the building permit time.

Mr. Haskins said he would check into this further, but he didn't think this parcel looked wet.

Moved by Bertram, seconded by Hohloch to approve Lot Split #00-60, contingent upon DPW recommendations. Motion carried 8-0.

2. ZC #258

BY: City of Burton, DPW
4093 Manor Dr.
Burton, MI 48519

RE: Ord. #19 Text Change
Article XIV, C-1 Local Business District
Section 14.02 Principal Permitted Uses Addition
Of #11- "Self-Serve Car Wash Facility" &
Section 14.03 addition Special Conditions.

FOR: Addition to the zoning district classification of C-1
For the purpose of self-serve car wash facility.

Mr. Major referred to Page 98 of the Zoning Ordinance, stating that the City is requesting that item #11 be added for a self-serve car wash in Section 14.02 and in Section 14.03. The modification they are requesting should read as follows: All business, service or processing uses per Section 14.02, except automobile service stations and self-serve car/vehicle wash facilities (Item #11, Section 14.02), shall be conducted wholly within a completely enclosed building, etc. He said they are asking that those two provisions be added to Section 14.02 and 14.03. We think that particular

use of a self-serve car wash fits that particular classification.

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Audience Participation:

Terry Parker, 4360 Sunnymead, stated that he is a member of the Zoning Board of Appeals and there is a piece of property that was denied twice for such a request. He said he has attended zoning seminars and was informed that a change in the zoning should only be done during the revision of the master plan. He thinks there should be a compelling reason to change the zoning and is against the Planning Commission making a recommendation for the zoning change. He said he has contacted several other municipalities to find out what zoning classification they use for self-serve car washes. Most of them use a higher zoning classification for the car washes. He said if this is approved, it will be a disservice to the City.

Allan Sikes, 4453 Sunnymead, said he is the Pastor of the New Testament Community Church located across the street from the property being discussed. His concern is that the self-serve car wash facility is one that doesn't have any set hours, and has no restrictions on it. Mr. Sikes indicated a concern about the car wash turning into a place for kids to hang out, especially without certain operating hours. There should be a healthier environment for them to hang around in. He isn't sure the use as a self-serve car wash will benefit the community.

Pauline Dargel, 6119 Hugh, commented that at the present time, a car wash is allowed in a C-3 zoning area or with a special use permit. The Zoning Board turned down the request for a car wash at the intersection of Bristol and Belsay Roads. There has been no good reason given to modify the text in the zoning ordinance. Mrs. Dargel said she hopes the Planning Commission has a vision for future zoning changes in the City.

Lee Ann Gabriel, 5455 E. Bristol Rd., stated that the community at large is against this being rezoned. The ZBA voted this down twice. She said she thinks the Mayor went behind the people's back in trying to get this property rezoned. She encouraged the members to turn down the rezoning.

Duncan Wooster, 5218 E. Bristol Rd., commented that zoning is to protect people and he understood that the property at the corner of Belsay and Bristol Roads would be rezoned to commercial. Many people have invested a great deal of money into their homes and the zoning is what protects our homes. He opposes the rezoning.

Russell Cool, 4178 S. Belsay Rd., said he is against the rezoning for the car wash. He said he has a great deal of money invested in his home and wants to keep his property value up. Mr. Cool inquired about the Mayor's absence.

Jan Bolin, 1169 Howe Rd., said she doesn't live in near this property, but she is against the rezoning. This is a residential area and she would like the board to think of how they would feel if this were in there area.

Patty Lair, 4022 Dallas St., said her home was flooded and she has a concern about where the water will go if a car wash is allowed to be built in this area.

Jerry Thomas, 4057 S. Belsay Rd., commented that he lives across the street from the property and he opposes the car wash. If this were a 5-lane road it would be okay, but it's not; it's a residential area and should remain as such.

Michelle Gorham, 5401 E. Bristol Rd., said she is not in favor of the rezoning. There are plenty of closed businesses that would accommodate a car wash.

Terry Parker, 4360 Sunnymead, said he tried to refrain from addressing a specific piece of property, but the property in question is at Belsay and Bristol Rd. He wanted the Board to keep in mind that wherever C-1 zoning is allowed, a car wash would also be allowed. The people don't want a car wash in this area.

Pauline Dargel, 6119 Hugh, commented about a provision in the Enabling Act, which states that people all over town would be eligible to sign a petition that would require a super majority of the Council to pass this. Is this correct?

Mr. Major replied that this is a question for the City Attorney.

Mr. Grantner reminded the audience that the Planning Commission is a recommending body. The City Council will make the final determination.

Mr. Young said he understands the state law says that when this body adopts something that the Zoning Board of Appeals, an appointed body, can override something done by an elected body. This bothers me. He said he has reviewed previous minutes from the Zoning Board and he doesn't want to deal with a specific piece of property. He said he thinks this was brought to the Planning Commission with someone trying to sneak in the back door and this bothers him also.

Mr. Hohloch said he would be voting no on every single text change because there is a master plan that is close to completion and will be followed by an ordinance re-write. He will be voting no in general principal to ordinance text changes.

Mr. Brawner asked Mr. Major if there is a precedence set when an applicant goes to the Zoning Board and is turned down, do we normally try to fit certain amendments into it to meet their needs. He said he hasn't seen this happen before, and there are certain options such as Circuit Court. Has he filed in Circuit Court?

Mr. Major said the Court option is still available, but he has not done so yet.

Discussion continued regarding the issue of a car wash at the Bristol and Belsay Road location.

Mr. Major explained some of the uses in certain zoning areas. He said that there are many text changes brought before the Planning Commission. The question you are to consider is where do car washes belong, in C-2 or in C-1 with special approved use? The Planning Commission has to make the decision as to which zoning is proper for car washes. The days of this 1974 ordinance is outdated and the text changes need to be updated.

Mr. Brawner said he agrees that the ordinance needs to be updated, but he would rather start on page 1, section 1 instead of starting in the middle of the document.

Mr. Major said the issue was brought before the Planning Commission because this style car wash didn't belong in any of the zoning classifications. The issue of the car wash has to be addressed, whether it is now or when the Master Plan is revised.

Mrs. Walls said it is obvious to her that the residents do not need the car wash.

Mr. Grantner commented that everything Mr. Major said is true and this issue will have to be revised, but the timing of this, along with Mr. Ashley's proposal has tainted this text change.

Moved by Young, seconded by Hohloch to recommend denial of Zoning Case #258. Roll Call Vote: Grantner, no; White, yes; Perez, yes; Walls, yes; Young, yes; Bertram, yes; Brawner, yes; Hohloch, yes. Motion carried 7-1 to deny.

D. AUDIENCE PARTICIPATION:

Pauline Dargel, 6119 Hugh, said when a ZBA case is to go to Circuit Court, there is a 30-day time period and this has elapsed, in regards to the Belsay/Bristol Road site. She spoke concerning the intensity of the light from the station at northbound Belsay Road and Court Street off the expressway. Mrs. Dargel also commented on the publication of Zoning Case #259 by Blake Rizzo. She said the legal notice was not site specific and therefore, the legal notice implies that every SE zoning in town will be changed to R-1B.

E. SITE PLAN REVIEW(S):

1. SPR #01-10

BY: Cindy Prvzinsky, Tim Horton's/
Mike Pifer, Kraft Engineering
19575 Victor Parkway, Ste 170
Livonia, MI 48152

RE: Tim Horton's
4025 E. Court St.
Part of Lot 8, Supervisor's Plat #39
Section 10
Zoned C-2

FOR: Change of Ownership/New Construction

Michael Pifer, Kraft Engineering, 409 W. Seventh St., Flint, MI, said the site is at the NE corner of Court Street and Center Road between the existing Subway and Buddy's Carpet. The vacant building was previously Wendy's restaurant and the building will be demolished and the new building will house Tim Horton's restaurant. Mr. Pifer gave the Planning Commission a handout and explained that the site is about 7/10ths of an acre in size with a frontage of about 95 feet. The Tim Horton's building would be about 2800-sq. feet. The ingress and egress to the property from Court Street, would be by means of an existing driveway that is already there. There will be a cross easement agreement with Subway to the west, to allow traffic from both businesses to circulate from one parking lot to another. Also, with the cross-easement agreement, it will give Tim Horton's access to Center Road. Parking will be located along the easterly side of the site with handicap parking in front of the building on the south side. There will be additional parking on the north side. A drive-thru lane will be located on the westerly side of the building. There are 29 parking spaces required and we will provide 39 parking spaces. The site is zoned C-2, general business, which is the zoning required for this usage. We have matched the existing front setback that is adjacent to the site on either side. The site is serviced by sanitary sewer and watermain already and we will be extending the utilities to the new building. The drainage will follow the existing drainage pattern. Site lighting will be provided with poll-mounted site lights with two on the easterly side, one out front and in the rear. The greenbelt between the road right-of-way and the drive-thru lane will be landscaped with trees and shrubs and we will landscape a small area in the parking lot on the southwest corner of the building. There will be a pylon sign on the southeast corner of the site and a dumpster will be placed at the northeast corner.

There was no one in the audience who wished to speak.

Mr. Pifer said there are building floor plans and building elevation. He presented a picture of what the site would resemble.

Mr. Major said we have reviewed the plans submitted and they are in full compliance 100% with no variances needed.

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Mr. Hohloch inquired if there could be any improvement in the drainage from that of the previous occupant.

Mr. Pifer replied that there are no public sterns to connect to. There may be plans for sometime in the future to extend the storm sewer system along the north side of the site. Mr. Hurand owns the Subway site and Buddy's Carpet and he is going to lease the site to the Tim Horton's people. With there being no public storms sewer available. We can simply match the drainage pattern that is currently there.

Mr. Major said a storm drainage district would be created to pick up this water and Mr. Hurand's property will be participants in that special assessments district. This is an area where they never had a storm system. They have always drained in that direction and it has never been a problem. Mr. Ogorek had set a district up before his passing, and that will come to fruition in the near future.

Discussion continued regarding the drainage issue.

Mr. Young inquired about the issue of sidewalks being constructed. He asked that sidewalks be added to the sheet of requirements the DPW issues, so the Board will know if this requirement is being complied with or not.

Mr. Major said this will be on the list of requirements starting with the next regular Planning Commission Meeting.

Moved by Bertram, seconded by Walls to approve Site Plan Review #01-10, contingent upon DPW recommendations. Motion carried 8-0.

F. ADMINISTRATIVE SITE PLAN REVIEWS:

1. SPR #01-03

BY: Vickie Rosebrough
3381 Greenley St.
Burton, MI 48529

RE: The Lemon Wedge
4476 S. Dort Hwy.
Parcel #59-32-400-026

FOR: Change of Use/Ownership.

There was no one present to represent this site plan.

Moved by Bertram, seconded by Young to postpone Site Plan Review #01-03 until the next regular meeting of March 13, 2001 at 6:00 P.M. Motion carried 8-0.

2. SPR #01-04

BY: At Your Service Cleaning Contractors, Inc
3300 S. Center Rd.
Burton, MI 48519

RE: At Your Service Cleaning Contractors, Inc.
Lot 42 Follo Acres
Section 28
Zoned C-2

FOR: Change of Use/Ownership.

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There was no one present to represent this site plan.

Moved by Bertram, seconded by Young to postpone Site Plan Review #01-04 until the next regular meeting of March 13, 2001 at 6:00 P.M. Motion carried 8-0.

3. SPR #01-07

BY: Alan Reno
1088 W. Vienna Rd., PO Box 370
Clio, MI 48420

RE: Muffler Man
4105 Davison Rd.
Parcel #59-03-300-057
Zoned C-3

FOR: Change of Ownership/Use.

Alan Reno, 1088 W. Vienna Rd., PO Box 370, Clio, MI, said he is representing Muffler Man. He is moving up the street to a temporary location until the building is rebuilt at the previous location on Davison Road.

There was no one in the audience who wished to speak.

Mr. Major said they are presently working on rebuilding at the previous location. Mr. Reno has other plans for this site in the future. We did an immediate building inspection and he has complied with all of the building department requirements. We are asking for temporary approval to be granted. We will discuss the sidewalk issue when he comes in for the permanent use permits. The building is in good shape. We don't know the time frame that will be needed for the temporary use.

Mr. Reno said he was told the building wouldn't be ready for about 180 days.

Moved by Hohloch, seconded by Bertram to approve Site Plan Review #01-07, contingent upon DPW recommendations. Motion carried 8-0.

4. SPR #01-09

BY: JRJ Properties
Jeff Jones
3162 E Hemphill
Burton, MI 48529

RE: 3162 E. Hemphill Rd.
Lots 2, 3 and 5 Palace Plot
Section 28
Zoned M-2

FOR: Office Addition.

Bruce Calhoun, 1111 Creekwood Trail, Burton, MI, representing Mr. Jones, explained that they plan to expand the office space at the fabricating plant. The main purpose is to dress up the building and make it look nicer and give them more room to work.

There was no one in the audience who wished to speak.

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Mr. Major stated that the site plan conforms to all city ordinances. This is a clean operation for an industrial zone. The sidewalks have to be installed and need to be included in the motion.

Moved by Walls, seconded by Perez to approve Site Plan Review #01-09, contingent upon DPW recommendations, including the construction of the sidewalks. Motion carried 8-0.

5. SPR #00-52

BY: C.G. Most Construction Inc.
Robert W. Giesey & Associates, Inc.
PO Box 422
Flushing, MI 48433

RE: Humane Society
3325 S. Dort Hwy.
Burton, MI 48529
Part of Lots 11 & 12 & 49-52 Hemphill Dort
Commercial Sites #2

FOR: Cold Storage.

Bruce Calhoun, 1111 Creekwood Trail, Burton, MI, said he is representing the applicant. He apologized for no one attending last months meeting and explained there was a miscommunication as to who would be attending.

Mr. Grantner asked Mr. Calhoun if he had seen a copy of the DPW requirements.

Mr. Calhoun replied he had not reviewed them. After a brief review, Mr. Calhoun said there was no problem with the DPW requirements.

Mr. Major stated that the site is in compliance with the exception of the sidewalk. There will have to be some paving done around the front of the building where there is gravel parking. We did an administrative approval on that.

Mr. Calhoun said the concrete work would be done in the spring and this is only for additional storage for the Humane Society.

Moved by Bertram, seconded by White to approve Site Plan Review #00-52, contingent upon DPW recommendations. Motion carried 8-0.

G. BOARD DISCUSSION:

Mr. Bertram made an inquiry about the Lemon Wedge operating prior to coming before the Planning Commission.

Mr. Major stated that Mr. Strasser granted an administrative approval and the site is 100% in compliance with the ordinance. He said he has taken the position that he wants Planning Commission concurrence on the administrative site plan reviews. He wants his position backed up with Board action. He feels there should be some type of license or certification granted by the governmental body for the businesses to operate.

Mr. Bertram said this issue has been discussed previously. It's unfair for the ones who comply with this procedure and others who don't.

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Mr. Major commented that it's difficult to deny the request if the people have paid for their site plan review and everything is 100% in compliance, or near that. We don't have a procedure to grant a business license and I don't believe it is good business for these people who have their businesses in compliance, to wait 30 days to go before this body.

Mr. Bertram suggested the applicants pay a fee for a special meeting.

Mr. Major said, on existing structures, if the building re-inspections are paid and there is no reason to deny them, the zoning ordinance allows him to grant administrative approvals. A Planning Commission allowed that to be done in years past. However, I choose to bring this before the Board for concurrence.

Mr. Bertram asked Mr. Major how this problem could be solved.

Mr. Grantner said if he understands this correctly, legally they do not have to come before the Planning Commission.

We complained about that because we want to know what is coming into the City and we received support from Mr. Strasser and Mr. Major. The way the ordinance is, we cannot make them come see us before starting their business. DPW has the ability to get them started.

Mr. Major said this is correct. We only exercise the administrative approvals on existing uses.

Mr. Hohloch commented that this is being done in lieu of a business license issuing policy.

Further discussion continued regarding the administrative site plan review approval.

Mr. Bertram strongly felt the businesses should come before this body prior to operation.

Mr. Young said if the applicant has met all of the zoning requirements, we should have faith in the zoning administrator to make the right decision. It is ridiculous for us to vote on this because the vote doesn't mean anything. According to the ordinance, the approval can be given administratively. We shouldn't make these people come here when it has already been approved.

Mr. Major said he would not bring a case before this board that doesn't comply with the ordinance. If he were on the Planning Commission, he would want to have the applicants come before him also.

Mr. Young suggested tabling this discussion until the next regular meeting. The Board should think about what has been discussed this evening and possibly make a determination of how to handle the administrative site plans at the March meeting.

Mr. Grantner said the decision is up to the Board whether we want the applicant to come before us. However, this will not prevent them from starting their business if they are in compliance with the ordinance.

Mr. Brawner inquired about whether businesses located in Courtland Center come before the Planning Commission.

Mr. Major said Mr. Strasser is supposed to track businesses coming in and out of Courtland Center, which is in C-4 zoning. Under C-4 zoning, we have a yearly inspection provision that we can site them for any defects in the parking lot, curbing, landscaping, etc. Anyone going in has to file their building plans for the remodeling.

Mrs. Walls inquired about the safety of the tanks at the corner of Bristol and Center Road.

Mr. Major said this is not his jurisdiction and he cannot say whether they are safe or not.

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Mr. Perez said the City received a notice from the DEQ and there can be no work on that site without either mediating the site or removing the tanks because they are still there.

Mr. Major said the tanks are updated from the 1950's or 1960's, but they are not current by today's standards.

The next regularly scheduled meeting will be held on Tuesday, March 13, 2001, at 6:00 P.M.

Meeting Adjourned at 7:32 P.M.

Cheryl M. Ladd, CMC
Deputy City Clerk

CML