

CITY OF BURTON
REGULAR PLANNING COMMISSION MEETING MINUTES
SEPTEMBER 11, 2007, 6:00 P.M., COUNCIL CHAMBERS
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Chairman Jerry Grantner led the Pledge of Allegiance.

Chairman Jerry Grantner called the Meeting to order at 6:00 p.m.

MEMBERS PRESENT: Flewelling, Grantner, Walls, Cummings, Sclater, White, LaDuke, Bertram and Centilli.

MEMBERS ABSENT: None.

OTHERS PRESENT: T. Strasser, Deputy Planning Official and J. Adams, Deputy City Clerk.

Moved by Bertram, seconded by Flewelling to approve the Regular Planning Commission Meeting for August 14, 2007 at 6:00 p.m. Motion carried 9-0.

SPECIAL USE PERMIT:

1. BCPC #07-21

BY: Richard J. Ryan, Jr. / dba RJ's Towing Service, LLC
2160 E. Hemphill Rd.

Burton, MI

RE: 2160 E. Hemphill Rd., Lots 1 – 14 Associates
Commercial Sites.

FOR: Auto Repair Service.

Richard Ryan, 2160 E. Hemphill Rd., stated he owns RJ Towing and he would like to also perform auto repair there.

AUDIENCE PARTICIPATION:

Jennifer Morquecho, 2246 Red Arrow Rd., asked if there would be cars for sale.

Mr. Ryan replied no.

Mr. Strasser said the applicant was before the Planning Commission in the past for a Special Use Permit for the towing service. He has been in operation for a year and a half. The auto repair facility would fit into the zoning that he is in and the type of uses in the area. Automotive repair of this type is inside a building. We recommend approval as long as it is within an enclosed building.

Mr. Grantner asked Mr. Ryan if he would be in agreement with that. Mr. Ryan acknowledged he would.

BOARD DISCUSSION:

Mr. Bertram inquired concerning the dispensing of liquids and oils.

Mr. Ryan replied he has been disposing it like Auto Zone does theirs. He is getting a waste oil tank and they actually pay me to take the oil out.

Mr. Bertram asked further regarding the number of employees.

Mr. Ryan indicated there are 5 people he employs that are mostly drivers.

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BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by LaDuke, seconded by White to approve BCPC #07-21 with the stipulation that all repair work will be done inside. Motion carried 9-0.

AUDIENCE PARTICIPATION:

Pauline Dargel, 6119 Hugh St., inquired regarding the status of New Town at Genesee and Davison Rd. and if that project is going forward. She indicated this is the GM property.

Mr. Strasser said to his knowledge, there has not been conferences between the City and the developer on that.

Mrs. Dargel said at some point in time it could revert back to its original zoning. She thought there is a provision if there isn't something coming forward within a year.

Mr. Strasser replied if you have a formal site plan that is approved by the Planning Commission you have one year to pull permits.

SITE PLAN REVIEW:

1. SPR #07-16

BY: Capitol Realty Holdings
140 E. Second St.
Flint, MI 48502

RE: Parcels 59-23-200-001, 59-23-200-007,
59-23-400-007 and 59-23-400-014.

FOR: Planned Unit Development.
R-1B Zoned, for the purpose of mixed use.

Mr. Grantner referenced the minutes of the last Planning Meeting and stated the applicant does not want to go to the expense of a full site plan if the concept of a planned unit development doesn't receive at least a blessing from the Commission and City Council. We do not have a complete site plan, grades or elevations. We are looking at a concept, an idea.

John Pavone, Capitol Realty Holdings, 140 E. Second St., Flint, stated we are primarily interested in receiving a conceptual approval for a planned unit development concept for the property. On July 10th he was before the Planning Commission, presented a conceptual site plan and discussed a continuum of care retirement community. This concept is to create a campus of uses primarily geared for people of retirement age. There are some attached and detached condos, apartments and assisted living facility. Mr. Pavone addressed further the parcel size, various services, walking trails and other amenities.

Mr. Pavone said a copy of the agreement has been provided to the Planning members and the City Attorney Mr. Austin. Mr. Austin reviewed it and responded in writing with his opinion. Mr. Pavone read aloud Mr. Austin's letter and addressed at length his concerns.

AUDIENCE PARTICIPATION:

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Pauline Dargel, 6119 Hugh St., spoke regarding size of the nursing home and location, a certificate of need from the State of Michigan, and a letter from the Assessor's Office concerning division of land.

Laurie Tinnin, 2340 Harmony Dr., inquired regarding Mr. Pavone's other developments. She is concerned about the traffic flow, sanitary sewer capacity, drain issues, disclosing other partners, and the developer/partners paying the costs of the additional sanitary sewer capacity for this development.

John Stapish, PO Box 190134, addressed concerns for the need of the senior development, maintaining the property, commercial use and deed restrictions.

Mr. Pavone addressed several questions asked by the audience. The skilled nursing home and assisted living center is a quarter of a mile off of the road. Commercial uses are the assisted living center and nursing home. It cannot be a strip mall or a bar. If it is determined a traffic study is required they are agreeable to it. The Drain Commission said there is ample sewer capacity to support our project. A certificate of need (CON) is a license from the State that allows an operator to construct a facility for a certain number of beds. They are currently negotiating to acquire a license from the former Clara Barton Nursing Home that burnt down. That license is for 149 beds. An application is in process to the State of Michigan in the event they cannot obtain that license, to get additional beds issued in Genesee County because we believe there is a need.

Mr. Pavone stated further they are in discussions with the number one nursing home operator in the State of Michigan. Their CEO visited the site and likes it. If we can get the license he wants to be the operator. Mr. Pavone said he is a land developer primarily and has a background in business and software engineering. He does not operate nursing homes. This is a professional nursing home operator they are working diligently with to attract to this site to operate this facility so it is a first class facility and ran accordingly. He spoke to the Assessor's office and we are dealing with the lot splits that will be taken care of soon. His partners are Ed Joubran and Troy Farrah.

Mr. Pavone addressed various developments they have accomplished throughout Genesee County. They estimate the value of this development to be around 80 million dollars. There is not a demand currently for the single family homes. The nursing home and assisted living center would be constructed first and then the apartments. The single family homes will be built in a later phase and they feel the demand will be there after the other projects are in. Mr. Pavone said the title work did not show any deed restrictions on record.

Mr. Strasser stated this is not a zoning case but it is notified the same. This is the first public hearing for this type of development and it will go to City Council after your consideration. The applicant is asking for conceptual and your input on the agreement between the developer and the City. He indicated he is going to address the issues the City Attorney Mr. Austin brought forth in his letter, re-do the agreement and bring it back to you for the next Planning Meeting on October 9th.

Mr. Pavone said that is correct unless the Planning Commission has no additional items that they would like to insert into it. If it is only the suggestions of Mr. Austin, I can insert those and you

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can push it to the Planning Commission for approval or denial subject to me inserting the changes he requested.

Mr. Strasser said if the Commission wishes Mr. Pavone to make the corrections and present back to you, then it stays in this Body. If not, we will send it on to City Council. I assume we would have the corrections for Council to look at in their meeting. Mr. Strasser indicated further, we agree with the concept and it is provided for in the residential zoning. The assisted living facility and skilled nursing home basically constitutes the commercial use on this property. It is allowed to be built prior to any other development within this PUD. The multi-family or the apartments cannot be built until a minimum of 20 homes are developed. They cannot be built prior to single family homes being started, unless the ZBA gives a variance to that. This is stated in Section 12 of the PUD provisions in the ordinance.

Mr. Pavone stated that taking a technical look at the wording in the ordinance, it states that 25% of the single family platted lots must be constructed prior to the multi-family portion of the site being built. Technically, we are not going to have any single family platted lots.

Mr. Strasser said in a condominium you have building envelopes. It doesn't state building envelopes. If we want to get real technical it doesn't apply and you can build it. It has been an accepted practice that a condominium takes the place of a subdivision. You still have a given area they are building on. You can't build the apartments until you have 20 building envelopes built with homes in them.

Mr. Pavone said that is one of the restrictions that would hurt us given the market place as it is right now.

Mr. Strasser said he understands but that is a specification of the ordinance, and only the Zoning Board of Appeals can vary from that. Mr. Strasser stated further he agrees with the concept and recommend approval on the concept and proceed with final site plans, agreements and so forth.

BOARD DISCUSSION:

Mrs. Sclater said she has a concern for the traffic issues and would like to see a traffic study done.

Mr. Bertram said he was still unclear as to what the Commission would be approving or disapproving. Our normal procedure is to see a stamped site plan. He has a problem with this conceptual.

Mr. Grantner said the Commission would be giving their blessing if approved for this to go forward. That information along with his presentation would go to City Council. Mr. Grantner stressed they are looking at an idea.

Mr. Bertram said there are concerns of major roads being on all sides of that project. He asked is the project going to expand out.

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Mr. Pavone responded that the Commission can create as a condition of receiving a final site plan approval, requirements that state in order to construct the assisted living and nursing home portion of the site, the developer will have to provide an access road to Belsay Rd.

Mr. Bertram commented on Mr. Austin's letter.

Mr. Grantner said he views Mr. Austin's letter as a technical issue. It is not really dealing with this concept. It doesn't think it has anything to do with what we are trying to get at here, which is frankly, is it a good idea.

Mr. LaDuke concurred with Mr. Grantner that this is an idea. He has not hear complaints from any residents. Mr. LaDuke asked Mr. Strasser to clarify the next procedures.

Mr. Strasser said we are only recommending is that it is a good project. If Planning wants to send this to Council just as a conceptual with this agreement, you can do that. The Commission can also wait until they get the site plans, review it and then send the entire plan to Council. That would probably be the better route to go.

Mr. Grantner stated he thinks it is a great concept but does not think you can look at this as solely a City of Burton project. You have to look at all of Genesee County and surrounding counties. He would have expected this project to have a wealth of demographic information and data supporting it. We have a project Burton Estates on Belsay Rd. across from this property that is not doing well. Another project on the corner of Belsay and Davison is being put in by what I consider to be a first class builder in the Burton area, and that is not doing well. I look at the businesses locally, Showcase Cinema is pulling out and Cummings Harley Davison is moving. There is not much work in this area and if you read the Journal, young people are not choosing to settle here because there are no jobs and old people are getting out of here. They want to go to Florida or somewhere else. Mr. Grantner stated further he thinks timing is everything. He would hate to see a project start and then fizzle. While I think this is a great project, I wish we would have seen this 10 years ago. I don't see this as being successful in this area. Mr. Grantner said based on his comments, he will be voting in the negative.

Mrs. Flewelling said she made phone calls this afternoon to several senior housing facilities. She asked how many units they had and vacancies. Three had no vacancies. Another facility has 106 units of which 15 are currently empty. That doesn't sound like much but the breakdown was suppose to be 30% low and moderate income and 70% of that was market value for the rental of those units. They are now at 60% low and moderate with 40% of market value and they still can't fill them. She has serious concerns as to where they are going to find these people at. MSHDA currently will not provide tax credits to Genesee County due to the high vacancy rate. The Genesee County Planning Commission is very reluctant to support any kind of senior housing. Mrs. Flewelling stated further at this point in time she will also be voting in the negative because I am uncomfortable with this sort of project.

Mr. Bertram inquired as to the condos being individually sold and if there would be an association.

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Mr. Pavone replied they would be individually sold units and there will be an association. They will have to comply within the framework of the master agreement.

Mrs. Walls said we have never approved anything like this before and she is not comfortable with it.

Mr. Cummings said he thinks it is a great idea. His daughter is a traveling occupational therapist and she said with the baby boomers coming up they are living longer. Mr. Cummings mentioned the assisted living center at Linden and Calkins Rd. He stated he is a businessman and if you can find someone to invest 2 to 3 million dollars and they are not smart enough to do their homework, I am not going to tell them they can't do it because I think they are going to fail. I still don't like the idea of approving something without pictures.

Mr. LaDuke interjected we are not making a commitment. All we are saying in theory is it looks good, bring us a site plan and we will reject or approve based on the site plan.

Mr. Pavone explained in detail the reason he would like approval on the conceptual PUD plan. He purchased property with two types of zoning in the City of Troy. He spoke to their mayor before he closed on the property and was told it met the master plan and was a perfect project for the site. He closed on the property that cost millions of dollars. He went before their planning commission and 300 people showed up and said it was the last piece of open space in the city. They couldn't approve it because of a demand for a park. They condemned it for public use as a park and it took seven years fighting them in Court.

Mr. Pavone indicated further he does not want to make the same mistake. He wants to know that City Council respects and appreciates what he is trying to bring to the City of Burton. He does not want to get caught up in politics. The plans will cost him hundreds of thousands of dollars, this is a massive site. He is proposing about nine different types of product and developments within this property. He is looking for a conceptual approval subject to final site plan approval. They cannot put a shovel in the ground unless you like the final engineered plans on this site.

Mr. Centilli said we should not decide if this man will or will not make it in what he is trying to do. We should give him our blessing and let him have the prints drawn up.

Mr. Bertram said our commitment is to this community. If we say bring us a site plan and you spend \$100,000 or more and it does not fly, that was your problem and not ours. We just don't make a habit of approving ideas or concepts, ever, and I have been on this Board for 24 years.

Mr. Pavone said he does not want to get hit at the City Council level after we did all this engineering. He does not want to get caught up in politics.

Mr. LaDuke said there is a potential of five new council members in November. Any commitment this Board makes or the Council in 2 weeks makes, and in theory it is a commitment, really it could go out the window. You might want to wait and address those people after November 8th.

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Mr. Grantner stressed to the Board the question we have to ask ourselves is does this Commission give its blessing and want to see a completed site plan.

Mrs. White said that conceptually, she is in favor of this plan. Mr. LaDuke has a valid point of Burton politics and how fast things can change. I think it would be a real smart move to wait till after the election.

Mr. Pavone said he would like this to go to Council for the conceptual approval at their next session and be voted on by who is in there now. He will come back to Planning for final site plans at a later date.

Mr. Strasser said if you send this to City Council for conceptual approval and they say no, you start all over again.

Mr. LaDuke said as a developer he has the right to ask the elected officials in this community to consider his project. He has no problem to take a vote here at this level and move it on to City Council and have him make his presentation.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Walls, seconded by Cummings to approve SPR #07-16.

Motion carried 5-4. Grantner – no, Sclater – no, Bertram – no, Flewelling – no.

PUBLIC HEARING:

1. ZC #305

BY: Cernet Co., LLC.
8033 Fenton Rd.

Grand Blanc, MI 48439

RE: 2385 Red Arrow, Part of #59-29-400-022.
M-1 zoned.

FOR: Change zoning from M-1 to M-2.

Atty. Steve Iamarino, 5500 S. Saginaw St., Grand Blanc, MI, stated he is representing Cernet and described the location of the property and as it relates to surrounding residential neighborhoods. He stated they intend to vacate Red Arrow Road. The property was an eye sore for the City of Burton and a cost of over \$50,000 was spent for removal of garbage and junk, and dead bodies were removed from the site. There has been manufacturing of road type materials at that location since the 1940s. Mr. Iamarino gave a brief history of the site and surrounding land uses.

Mr. Iamarino said the complaints about the concrete crushing will not go away if there isn't a change. It is an allowed use, and a lawful use. Mr. Iamarino discussed further the concrete crushing operation.

Mr. Grantner requested a 5 minute recess at 7:59 p.m.

Meeting resumed at 8:05 p.m.

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Mr. Grantner indicated this case has been a lengthy process and it came before the Zoning Board of Appeals a few times. A request for a variance was turned down. Although there was a majority vote, it was still turned down 4-3. At the very next meeting there was a request for a re-hearing and again there was a majority vote but not enough and it was voted down 4-3. This Board is a recommending body and this will be going to Council.

Mr. Iamarino addressed his supplement to the application and agreement for conditional rezoning. He asked that the following be in record: 1) There can be no mandates by the City as to what can be offered. 2) There can be a time period imposed for meeting all conditions. 3) There can be no additional impositions after the agreement was reached. 4) There can be no unilateral contract changes by the municipality while compliance with the condition is allowed. 5) Additional time may be allowed for condition compliance if there are certain factors that justify that. 6) The municipality cannot require conditions for rezoning, they have to be offered.

Mr. Iamarino stated that after meetings with the Zoning Board, Mr. Major came up with some constraining conditions that we adopted and refined. The conditions would be adhered to as stipulations. Mr. Iamarino read aloud the conditions.

AUDIENCE PARTICIPATION:

Jamie Boggs, 3344 Cheyenne, said she is representing many concerned residents that live in Elmwood Gardens and Hemphill Subdivisions. Mrs. Boggs presented a letter to the Board and Clerk's office for the record, and read aloud the letter. They question the legality of Cernet applying to rezone property owned by Z-Mar. Z-Mar owns all the property in question north of Red Arrow Rd. It is a completely separate company from Cernet with its own tax ID. Zi-Mar is co-owned by Neil Martz and John Zito. The company's need for expansion does not justify a zoning change. Heavy industry does not belong next to residential. The residents don't want more piles of concrete any closer to their homes. Spreading out the piles will make more dust and noise, and cause life threatening problems.

Debra Eagon, 3328 Ogema, stated the company's noise expert was only there for 3 or 4 hours and he admitted that not all the equipment was running or operational that day. Mrs. Eagon spoke concerning noise from the use of conveyors and front end loaders. The ZBA denied them twice and she doesn't think that they should get any conditionals.

Nancy Cook, 3335 Menominee, spoke concerning various ZBA meetings held since 2005, inspector notices, violations, fencing, screening and other items not completed. Mrs. Cook also expressed a conflict of interest with Neil Martz working for Jeff Wright the County Drain Commissioner. She asked that the heavy industrial zoning be denied.

Helen Carpenter, 2224 Red Arrow Rd., stated they have lived there for 42 years. They walked through those fields and have yet to find any dead bodies. We found fields of wild flowers and little ponds. She has not found one person to say there were dead bodies. She does not like the insinuations that were made.

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Randy LaLone, 3814 Circle Drive, stated the air quality is a real threat to the community's health. In Waterford Township there is a landscaping business that stores products such as gravel and other landscape materials in bulk form. Waterford Township made the company put in sprayers to control the dust to abate the problems with air contamination. This development is right for that. He has not seen any sprayers what-so-ever. The wind grabs that stuff and blows it all over. From an environmental concern it would be advantageous to request an EPA study to be done on the effects of the current pile is having on the residents. By changing their zoning from M-1 to M-2, you are just going to facilitate more pollution and be an enabler. On that condition alone they should be turned down. Mr. LaLone asked for clarification on the applicant's agreement.

Mr. Grantner responded that the agreement is basically most of the stipulations that came from the Zoning Board of Appeals for the approval for the variance, which never passed.

Mr. LaLone questioned further the height of the piles and having control. Due to the repeat violations he asks the Board to vote no.

John Stapish, PO Box 190134, stated this development is not in his back yard but he is against it. When Zito Construction widened Bristol Rd they took piles of dirt and asphalt on the power lines on the south side of Bristol Road. It has never been cleaned up. If they didn't take care of anything then, why would we believe they will do anything else.

Jennifer Morquecho, 2246 Red Arrow Rd., passed out information to the Board and said it included several e-mails she received from Mr. Lambro at Air Quality Control. Mr. Iamarino stated dead bodies were found on the property. She would like to know the names of the persons and dates the bodies were removed. The M-1 zoning was put into place to barrier this company's effects to the surrounding neighborhood. There is no reason our City should not stand behind its residents and wanting to preserve the quality of life. Mrs. Morquecho read aloud a letter stating many concerns.

Pauline Dargel, 6119 Hugh St., stated she took part in the Master Plan as it was developed by the Rowe Engineering Co. It was adopted January 2002. Subsequently, the zoning map and zoning ordinance was adopted and made effective April 1, 2004. This proposal is in violation of the Master Plan. The Planning Commission adopted the Master Plan. Is this conditional zoning a warranty or guarantee on top of what is already in place in our M-2 zoning. You are changing the M-1 that it currently is, in violation of the Master Plan and in violation or change in the Zoning Ordinance 19. Mrs. Dargel asked if this negates some of the provisions that had been laid out in earlier site plan reviews and have yet to be complied with.

Mr. Iamarino addressed statements and questions expressed by the residents. He understands concerns and does not disrespect them. He said there is no action to take with the DEQ. There are no issues with wetlands. His client has spent ¾ of a million dollars to get state of the art equipment and obtain their own DEQ permits. If there were air quality issues they would have been addressed by the DEQ. The crushing taking place now is with equipment that is licensed, checked annually and certified. The water flows in a direction different than what it would take for any problems to have been caused by Cernet and Zito. Mr. Iamarino said his client can attest

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to dead bodies, junk and garbage being removed from the property. They have cleaned up the property and want to move their corporate headquarters there.

Mr. Iamarino addressed the site plan. He indicated the economy changed and they wanted to meet with the City and resolve some issues, including concerns that Attorney Joliat expressed regarding lowering the piles to 25 ft. We agreed it was a good idea and in order for us to function, we will crush and move the piles into 25 ft. piles that can be more contained and less of a nuisance to the area. It was recommended to apply to the ZBA, which we did. Mr. Iamarino said they received approvals but they did not have the super majority. Mr. Strasser felt it would be better to go for conditional rezoning.

Mr. Iamarino addressed the signage issue. The sign identifies an industrial area that is no different than Maple Pointe or other subdivisions that have identification signs. The sign was placed in conformity with all other signs on Dort Hwy. Mr. Zito will move the sign where it needs to go after they determine what the affect of vacating Red Arrow Rd. would be. Mr. Strasser said it needs to be set off of the right-of-way of Red Arrow and also right-of-way of Dort.

Mr. Strasser addressed the supplement to the application for conditional rezoning. The municipality may not require any condition for rezoning. That is State law. In the Planning's packet of information, the State says that in two different sentences. They can only offer things, you cannot request things. You can only act on what they offer. In the ZBA minutes of October 19, 2006, the representative from Rowe Engineering stated Mr. Zito was willing to deplete the mounds into 25 ft. piles that are on the south side of Red Arrow Rd. The ZBA minutes of April 19, 2007, Mr. Iamarino stated that in order to reduce the pile height they would have to spread the piles out on the south side of Red Arrow Rd. The ZBA minutes of June 21, 2007, four different zoning districts on this area, all equipment would stay operational. The piles would be depleted to 25 ft. He believes that was in reference to the piles on the south side of Red Arrow.

Mr. Strasser said Item #2 on Page 1, states no piles greater than 25 ft. in height on the rezoned property north of Red Arrow Rd. So we have a conflict. Mr. Iamarino stated they will correct this conflict but you cannot require that, they can only offer it. On page 1, the site plan Mr. Iamarino referred to that was drawn by Rowe Engineering and revised on May 16, 2007, has a conflict. It says maintenance of a 250 ft. separation area from both the Joyce and Ogema St. right-of-way areas which must remain completely undeveloped and/or developed consistent with adjacent residential uses. On the site plan, from the Joyce St. right-of-way, it indicates a 200 ft. separation to a stock pile area and the offering from Cernet is a 250 ft. separation. From the Ogema St. right-of-way, there is a 214 ft. separation to a proposed building. Item # 2 in the offering, says maintain maintenance of a 250 ft. separation.

Mr. Strasser expressed further, he recommends denial on the conditional rezoning as presented with these conditions.

BOARD DISCUSSION:

Mr. Cummings said he visited the site and seen the concern of the height. Mr. Cummings expressed that the Board has not have a site plan.

Mr. Strasser said if zoning is approved then this plan is implemented.

Mr. LaDuke said this supercedes the site plan because this is the conditional zoning and it says 250 ft. This is the conditions we would recommend, not the site plan.

Mr. Strasser said it also states that site plan and special land use approval are to be granted as part of the rezoning request, on page 3. The plan and this offering are in conflict.

Mr. LaDuke said he thinks the company should clarify if it is the 250 ft. we are supporting or a site plan we haven't seen we are supporting.

Mr. Cummings said when he was out there he noticed at the Joyce St. intersection there was not a berm up. It appears that if there was a little bit more work done it would protect the neighbors more. What I saw I would feel confident that they are going to add the site plan as a part of this.

In response, Mr. Iamarino stated they submitted a site plan previously that shows where the berms and the trees are to go. In #7 we have to maintain the berms and natural vegetation areas. There are a certain number of trees that will be installed in addition to what is already there. The site plan that was submitted I asked for this to be incorporated.

Mr. Strasser said the print shows 214 ft. which is a conflict.

Mr. Iamarino replied he will write 250 ft. and wherever that 250 ft. ends up is where the trees will go. He commits to this here and now.

Mr. Grantner asked what other areas of the supplement is out of sync with the site plan.

Mr. Strasser said if that is changed and they offer that, based on previous discussions and previous meetings, Item #1 indicates the 25 ft. height of the piles is only going to be north of Red Arrow and not south of Red Arrow.

Mr. Iamarino said he commits to 25 ft. piles on both sides as his client just said he would.
Mr. Grantner asked if it is pre-crushing or post crushing.

Mr. Iamarino replied in terms of the aggregate, it needs to be crushed in order to be in a pile height, all processed materials. Everything on the other side of the crusher is not an issue, but we are willing to take those piles down to 25 ft. and to work diligently to crush the rest to get it down.

Mr. LaDuke spoke regarding lack of enforcement by the DPW. He has heard this body say how frustrating it is to make approvals and not have them followed up. At the City Council we added "Old Business" to the agendas so when one of these residents come up with a problem, it stays on the agenda till it is resolved. If there is a complaint that Zito has not met requirements, we will be able to follow up with it. Mr. LaDuke said he has been out to the site on two occasions, per the request by some of the residents, and has not personally witnessed any real noise problems. He was involved 15 years ago when this place was a dump. We put guardrails down Ogema St. to keep out the intruders. The site has been unmanageable until this company came in there.

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Mr. LaDuke addressed the drain issue. He got a list from the Drain Office and the Flint Journal of all the inspections of the storm sewer. The storm sewer is on the north edge of the property and not where the operation is taking place. I went through one by one and read the complaints and the results. It is clear to me with 30 years of experience in this field, this drain is undersized, broke with roots in it that happens with an old clay pipe, and no where did it mention it was caused by this operation or the crusher. It stated the pipe under Cernet was probably the best pipe in the whole operation. Forty years ago when they put this in, there wasn't the asphalt on Dort Hwy. Nor the parking lots and so all the run off probably went out into that field. The conditions that Mr. Major and the ZBA brought is protecting the residents. He would like to see this move on to City Council.

Mr. Centilli said he has been around that property since it was called Genesee Cement. He personally poured thousands of yards of cement from the 1950s, 1960s and 1970s out of Genesee Cement. Dry cement was sprouting out of the hoppers 50 ft. into the air. They use to have a stamping plant there that made blocks. Those cement trucks started at 4:30 a.m. in the morning and there was an active railroad train then. It is now all isolated and quiet back there. The land was a haven for bums and there were motorbike trails. Mr. Zito is going to put his headquarters there, it will be a class act because that is the way he operates. If this is not recommended to City Council it will be just business as usual.

Mr. Cummings asked if we approve the conditions they have offered and there is changes, are we coming back to look at different conditions.

Mr. Iamarino said he will sign the documents now and Attorney Austin can put it in any contract form he wants to.

Mr. Grantner said we are recommending what is essentially offered here subject to, tweaking between now and the time it gets to City Council.

Mr. Iamarino acknowledged if the City Council would like to have another condition offered, we would do so.

Mrs. Flewelling asked if the Commission could receive a copy of what goes to Council.

Mr. Iamarino said Mr. Austin might do a more formal contract.

Mr. Granter said Mr. LaDuke expressed the need for some kind of a punch card system that comes back to close the feedback loop and we just don't have it yet.

Mrs. Walls said she thinks Mr. Zito has not been a very good neighbor, but she also thinks the neighbors expect too much. They should all make an effort to get along.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Cummings, seconded by Walls to recommend approval to City Council of ZC #305 as set forth by conditions of applicant. Motion carried 8-1. Bertram – no.

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BOARD DISCUSSION:

Mr. Grantner stated there was some pretty vigorous discussion tonight and not everyone agreed, and he thinks that is the way it should be. He commends the way everyone conducted themselves.

The Meeting adjourned at 10:17 p.m.

Please note: The next regularly scheduled meeting for Tuesday, October 9, 2007, at 6:00 p.m. is Cancelled.

jra