

CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING
MINUTES

August 16, 2012

Chairman T. Michalski called the meeting to order at 4:03 p.m. and roll was taken.

MEMBERS PRESENT: B. Larson, L. Spataro, L. Mikesell, T. Michalski, W. Parker, B. Mazade

MEMBERS ABSENT: J. Doyle, excused; B. Smith, excused; S. Gawron

STAFF PRESENT: M. Franzak, D. Renkenberger

OTHERS PRESENT: R. Bultje, Scholten Fant, Grand Haven; P. Johnson, Resource Planning & Design, Spring Lake; J. Schrier, City Attorney, 601 Terrace Street

APPROVAL OF MINUTES

A motion that the minutes of the regular meeting of July 12, 2012 be approved, was made by B. Larson, supported by W. Parker and unanimously approved.

PUBLIC HEARINGS

Hearing, Case 2012-18: Request for a Special Land Use Permit, per Section 601 of Article VI of the Zoning Ordinance, to have a private noncommercial recreation area at 966 Washington Ave, by Brett Gilbert. M. Franzak stated that the applicant had decided to change his site plan, and requested that this item be tabled.

A motion to table this case per the applicant's request was made by L. Spataro, supported by B. Larson and unanimously approved.

NEW BUSINESS

None

OLD BUSINESS

Case 2012-17 (Tabled): Request for a site plan review for the property at 2400 Lakeshore Dr, by Melching, Inc. T. Michalski asked if staff had met with Melching since last month's meeting. B. Mazade stated that City staff had participated in a meeting with the DEQ and Melching, but there was limited discussion relative to the site plan. He stated that they had discussed what was going on at the site currently, what would occur in the future, and how the DEQ could assist. T. Michalski asked if additional meetings were planned. B. Mazade stated that it was a productive meeting, and they were currently working on setting up a future meeting. B. Larson stated that the site plan was

incomplete, and pointed out what he said were inconsistent statements in Melching's letter. He thought the County drain commissioner should be involved also. M. Franzak stated that the City's Engineer looked at those issues. B. Larson was concerned with the lack of an acceleration lane in front of the site, the lack of compatibility with surrounding uses, and noise, air, and ground pollution. L. Spataro was concerned with the lack of a deceleration lane, and whether the current street configuration could handle the additional truck traffic. He stated there were issues with ingress and egress, drainage, and again, how this use fit in with the rest of the site. He also didn't see access points to the site shown on the plan. He had hoped to have additional information provided by the applicant. B. Mazade agreed that it would be nice to have a plan for the entire site, but didn't think it was a requirement. He stated that the property was zoned I-2, and as such, scrap metal processing was allowed by City ordinance. He stated that Mr. Melching was asked to submit a site plan for that use, which he did. He stated that if the site plan was denied or tabled, the Planning Commissioners needed to point out the site plan defects on which that decision was based. L. Spataro asked if what they had was sufficient for them to act on, or if they could request additional information. M. Franzak explained site plan requirements and stated that all pertinent City departments had reviewed the plan and noted no deficiencies. The site plan review process was not about use, as much as it was about things such as landscaping, grading, etc. He stated that in the past, the City had accepted a partial site plan where a large parcel was concerned. B. Larson asked if the pending ballot issue had any effect on this decision, and if the case could be postponed until November. J. Schrier stated that it was still undecided whether the ballot issue was a valid way to promote a zone change; regardless, as a legal non-conforming use, the use would have a right to continue. Therefore, the use being requested would still be allowed, even if the property were rezoned. L. Spataro was opposed to tabling the request over the zoning issue. B. Larson stated that there were discrepancies between Melching's letter and what was shown on the site plan. He asked if they were allowed to use the spit of land going out into Muskegon Lake. M. Franzak stated that it had historically been used as a shipping port and was allowed to continue. B. Larson asked if that inlet was part of the site plan. M. Franzak stated that it was. T. Michalski believed that the Planning Commission had a couple of options: to leave the case tabled and express specific concerns regarding the site plan, or to take the case off the table and vote. J. Schrier stated that the Planning Commission could either approve the site plan, reject it and state the reasons, or approve it with conditions. The Zoning Ordinance listed specific site plan review criteria, so any denial must be based on that.

A motion to take this case off the table was made by B. Mazade, supported by L. Spataro and approved, with T. Michalski and B. Larson voting nay.

R. Bultje and P. Johnson stated that Mr. Melching had heard the message about the desire for a master plan or PUD, but it was premature at this point in the project. R. Bultje stated that the zoning ordinance did not state that they were not allowed to use their property because all 119 acres were not mapped out. He stated that they were asking for a use by right in an Industrial district, which included the shipping port. They were also aware of the ballot petition and their position was that citizens could not initiate a zone change. He stated that use of their land could not be denied them without due process. He stated that the site plan presented met zoning ordinance requirements and was approved by City staff, and they requested an answer. B. Mazade asked if they knew what kind of time frame they were looking at before they were at the point of being able to provide a PUD or full site plan. R. Bultje stated that there were many issues at stake with this property and it could take a couple of years. T. Michalski asked if the scrap dismantling area was to be located on an already polluted portion of the site, or a clean area. P. Johnson stated that the area of the site in question here was not the focus of their discussions with the DEQ regarding remediation. T. Michalski asked what precautions would be taken to avoid polluting the boat basin and stormwater

pond. P. Johnson explained procedures to safeguard the water supply, stating that all stormwater would be contained on-site, then discharged into the municipal system. They would also add another retention pond.

Several audience members spoke in opposition to the request. Concerns included noise, air, and ground pollution, the negative impact on neighbors, the health of Muskegon Lake and all the money that has been spent on restoration so far, and the lack of information on plans for the entire site. Some audience members also expressed a desire for more public involvement and input. Board members and the City Attorney discussed options for approving or denying the request, and the possible consequences. L. Spataro stated that there seemed to be no technical objections from City staff, and now there was a deadline set due to the upcoming ballot issue regarding the zoning.

A motion to approve the site plan for scrap metal processing located at 2400 Lakeshore Drive, was made by L. Spataro and supported by B. Mazade, with discussion continuing on the motion.

L. Spataro stated that no one disputed the importance of this site. Unfortunately, the citizen initiative to put the zoning issue on the November ballot has forced all parties to rush into a decision on something that should have been allowed to take time, considering the magnitude of the project. The City had no say over who Sappi sold the property to. L. Spataro stated that it was unfortunate that instead of approaching dialogue in a positive way, some were trying to force the property owners into acting. It was reasonable to expect Mr. Melching to protect his property rights. L. Spataro stated that he had an obligation to do what was legally defensible for the City, and to continue positive meetings and interaction with the property owner, Mr. Melching.

A vote was taken on the above motion which was approved, with T. Michalski and B. Larson voting nay.

Form-Based Codes – Board members and staff concurred that this would be discussed at the next meeting.

There being no further business, the meeting was adjourned at 5:27 p.m.