

APPROVED MINUTES OF THE REGULAR MEETING
OF THE KENTWOOD PLANNING COMMISSION
MAY 9, 2023, 7:00 P.M.
COMMISSION CHAMBERS

- A. Chair Jones called the meeting to order at 7:05 p.m.
- B. The Pledge of Allegiance was led by Commissioner Poyner.
- C. Roll Call:
Members Present: Bill Benoit, Dan Holtrop, Sandra Jones, Ed Kape, Alex Porter, Ray Poyner, Darius Quinn, Doug VanderMeer, Sarah Weir
Members Absent: None
Others Present: City Attorney Dave Eberle, Community Development Director Terry Schweitzer, Senior Planner Joe Pung, Planning Assistant Monique Collier and the applicants.
- D. Approval of the Minutes and Findings of Fact

Motion by Commissioner Benoit, supported by Commissioner Holtrop, to approve the Minutes of April 25, 2023.
- Motion Carried (9-0) –
- E. Approval of the Agenda

Schweitzer noted that in Case#12-23 in a Master Plan Amendment it shouldn't reflect C4 Office to R4 High Density Residential but it should read Change in the Master Planned Land Use Designation from Commercial to High Density Residential

Motion by Commissioner Holtrop, supported by Commissioner Poyner, to approve the agenda for the May 9, 2023, meeting with change noted.
- Motion Carried (9-0) –
- F. Acknowledge visitors wishing to speak to non-agenda items.

There was no public comment.
- G. Old Business

There was no Old Business
- H. Public Hearing

There were no public hearings.

Case#11-23 Request by the City of Kentwood to amend the Animal Control and Form Based Code provisions of the Zoning Ordinance pertaining to building type size and massing, sign display, building type floor height, building type façade composition, building material and construction, and use allowances.

Schweitzer stated that Prior to changes in 2022, Kent County Animal Control was an operation of the county health department. Following a review and study of other animal control operations within Michigan, Kent County moved animal control operations under the oversight of the Kent County Sheriff's Office and passed a new county-wide animal control ordinance. Under the Dog Law of 1919, Act 339 of 1919, counties can establish an animal control agency, and in turn, "[t]he animal control agency shall have jurisdiction to enforce this act in any city, village or township which does not have an animal control ordinance." Given the language of Act 339 of 1919, any municipality which has its own local animal control ordinance would prevent Kent County from enforcing the County animal control ordinance.

The city does not have to surrender completely its ability to regulate animals within its jurisdiction.

The city may still regulate certain aspects of the existing animal control ordinance through zoning and special land use permits. The city will take deliberate steps to ensure it has ordinance language in place where the county ordinance is silent.

Schweitzer stated the first action was taken by the City Commission to repeal our current animal control regulations. There were portions of it that they wanted to preserve so they put it in different chapters of our code of ordinances. There is a small section that pertains to our zoning ordinance.

1. Amending the definition of kennel
2. Kennels we treat as a Special Land Use in the industrial and Commercial retail zone there are a number of site designs standards associated with that. One deals with being in conformance with any State or Federal requirements. He stated staff has been recommends we also specify that it has to be in accord with the County regulations. Also adding in the licensing of kennels will continue to be handled by the County animal control services.
3. There were provisions in the City code to deal with vicious animals. Under this the County Animal Control Officer will be making a determination on our behalf whether an animal is a viscous. If they do then the owner of the animal would continue to have the right to house it on its property but with restrictions. They would have to have a sign up saying that they have a vicious animal on their property if they have an outside pen that too will need to have a sign posted on the pen.

VanderMeer questioned the vicious animal determination as it relates to The County team “menacing” and a “vicious” animal referenced in the Code of Ordinances. VanderMeer stated then we run into the legal issue whether it is a vicious animal versus a menacing animal. Schweitzer stated that is where we are leaving it up to the animal control service to make that determination. Schweitzer stated they can look at what we have in our code of ordinances, or they can look at the menacing animal provisions and make that determination. Attorney Dave Everly stated he will speak with City Attorney Sluggett to see if we can maintain consistency in the terms being used.

Form Based Code-

In 2017 the Zoning Ordinance was amended to include a new Chapter 23 entitled Division Avenue Form Based Code. Form-Based Codes (FBC) represent a paradigm shift in the way that regulates the built environment. This shift was considered necessary because the conventional, use-based approach to zoning had been shown to be ineffective for regulating diverse, urban, mixed-use environments.

The City of Kentwood incorporated Form-Based Coding into the Zoning Ordinance seeking to achieve the vision, goals, and outcomes of the “Fisher Station Sub Area” and the Division Avenue Sub Area plan that were within the 2012 Kentwood Master Plan. The FBC is intended to encourage a compact, transit-oriented development pattern that promotes a diverse mix of uses and building types, transit-supportive density and uses, and walkability.

When the code was introduced over five years ago, we anticipated there would be a need to modify the regulations to fit the evolving context of the Division Avenue corridor as well as the one quarter mile stretch of 44th Street, east of Division Avenue. The first two amendments approved by the City Commission took place in 2018. The first change was in response to a concern that there were too many requirements (amount and location of parking, building height, lighting, landscaping, signage, use, and building placement, type, or façade) that were being triggered by minor expansions to existing buildings. The new regulation specified most of the requirements would come into play only when façade expansions were planned in the front yard, or when an expansion doubled the square footage of a building on a property. In addition, with any building expansion, non-conforming pylon signs were allowed to remain on site. However, once these signs were removed, full compliance with the sign provisions of the ordinance was required. The second change to the FBC was to allow microbreweries subject to special land use review in both the general and corridor edge context areas.

Schweitzer stated in FBC we allow for residential buildings now along the Division Avenue frontages. He stated it can be a freestanding residential building or a mixed use where you have commercial on the ground floor and the upper levels have housing units. He stated we have requirements for location. The buildings are being pulled closer to the street and the composition of the façade is a big part of the consideration with the FBC not only where it is located, but how it looks and how much glass and how much transparency it has.

- Sign band signs are currently only allowed to be externally illuminated. Consider internal illumination since internal illumination and neon are otherwise allowed in all other zone districts.

Schweitzer stated from staff perspective we feel it is reasonable to allow for internal illumination

- The Corridor Edge size restriction for ground signs is a maximum of 12 square feet for single business sign/24 square feet for multi-tenant sign with no provision for pylon signs. The height and width of the maximum 12 square foot ground sign is limited to 4 and 3 feet respectively and the height and width of the 24 square foot ground sign limited to 5 feet. In Corridor General there is no allowance for any type of freestanding signs. Staff originally suggested consideration of allowances for larger and higher ground signs in both context areas. Buildings within FBC are permitted to have as many as seven different signs attached to the building, much more than allowed in any of the other zone districts in the community, and the FBC build to line or build to zone requirements often leaves very little area between the building and the sidewalk to place ground signs. Therefore, it may be reasonable to merely make the 24 square foot ground sign allowance, with up to 5-foot height and width dimensions, available for both single and multi-tenant buildings in only the Corridor Edge context area.
- The FBC only allows pitched roofs for small multiplex and flex buildings. The large multiplex currently must be a flat roof with parapet. Based on the initial work session review, the Planning Commission appears to support allowing for pitched roofs on large multiplex buildings.
- The FBC restricts the building width of Flex and Mixed-Use buildings to a maximum of 150 feet. Staff suggest a greater allowance of 160 feet along public street frontages. He stated the main body building width non-public street frontage recommendation is a 220 feet maximum.

The FBC requires Flex buildings to have a horizontal expression line from 24 to 42 inches in height along the entire width of the façade as well as 16” to 32” pilasters every 20 to 50 feet along primary and secondary building walls. City Staff suggested the elimination of these requirements if the building is exclusively residential.

Schweitzer stated staff is suggesting if it is a residential building that there is no need for that expression line. Also, there is a requirement for pilasters and if it is mixed use building maintain the requirements for expression lines as well as the pilasters. But, if it is all residential staff is suggesting that requirement be waived.

Holtrop questioned the rationale for waiving the requirements for an all residential building. Benoit stated the horizontal expression line is really supposed to let you know it is a mixed-use building by looking at the building. It is not mixed use if it is all residential. Holtrop stated the look of the side of a multi-story residential building is all going to be the same, there is no break in it. Jones stated she agrees she would rather keep the expression line and pilaster requirements and allow the developer seek for a variance request based on the project rather than change the current zoning provision. Jones stated she likes the look of having that differentiation between the floors. Porter stated he agrees and mentioned the homes on 52nd Street facing the interior street. Porter stated you see the back of the houses where they have one window and all siding for 3 stories and it doesn't look good. The commissioners stated we need those provisions.

Benoit stated his only concern with that is what would be the criteria to prove that they are eligible for a variance. He stated he doesn't think any of them would fit you have to comply with all non-use variance standards and if you don't comply with one of them they can't get a variance. Schweitzer stated there is a mechanism that we can consider if you want to have some flexibility on how that is addressed. Schweitzer stated you have within the FBC allowance for administrative departures. He stated you could make allowance but there are still standards, but they are not as strict as the zoning board of appeals. The commissioners expressed a desire to pursue that approach.

- Consider whether to amend the use allowances in both corridor edge and corridor general to include Commercial Enterprises Producing Merchandise on the Premises subject to special land use/ site plan approval. The Characteristics of this use are like microbreweries which are allowed subject to special land use and site plan review. The existing special land use site design standards limiting the number of merchandise production employees, production impact on adjacent occupied premises and on-site retail sale of product are important to these reviews.

Schweitzer stated between special land use general standards as well as the specific standards it should be a reasonable way to expand the allowance. The commissioners appeared to be in support of this change.

- The minimum first floor ceiling height for Flex and Mixed-Use buildings is 14 feet. Consider removing or reducing this requirement to 10 feet. The minimum 10-foot requirement will reasonably provide the desired flexibility for either residential or commercial use of ground floor space.

Schweitzer stated mixed-use buildings are designed to have retail on the 1st floor and the provision for pilasters and expression line would come into play then along with the 14ft. He stated with the flex buildings we had a variance request for the Annex project where they wanted a 10 foot first floor height level. They were going with residential on the 1st floor, but they felt it would be better to go with the 10 foot ceiling height and he feels that it seems to be a reasonable compromise to make allowance for that in the flex because it is more likely that it will all be residential as opposed to a mixed use building.

- Awnings are currently required to be either cloth, canvas or similar materials. Consider making allowance for metal. Consider allowance for metal awnings. The commissioners appeared to be in support of this change.

Case# 12-23 - 2180-2186 44th Street Master Plan Amendment – Change in the Master Planned Land Use Designation from Commercial to High Density Residential

Schweitzer stated the request is for a change in the Master Plan Land Use Designation from Commercial to High Density Residential.

Schweitzer stated the proposed condominium use is located at the corner of 44th Street and Applewood Drive. The property to the south of the development is a duplex and is

located 186 feet away from the existing office building and it is master planned for Medium Density Residential use. The property to the west is an office development of a similar design and era as 2180-86 44th Street. It is Master Planned for Office use. The subject property currently has 2 three story office buildings, connected by a common hallway. The applicant's plan is to convert the buildings into a high-density residential condominium development, with a total of 16 condominiums units.

The office buildings proposed for redesignation to High Density Residential use were constructed in 1971 and is 13,416 square feet in area. The applicant indicates that the buildings are not suitable for a modern office space and demand for office space is limited. In addition, demand for housing is currently high. If the Master Plan is amended to High Density Residential for this site, the applicant has committed that the site will be developed as a condominium site. However, individual owners could rent their own condominium units.

According to the Institute of Traffic Engineers report Trip Generation, 11th Edition, office developments of approximately 18,000 square feet can generate approximately 267 trips per day. A 16-unit condominium development can generate approximately 108 trips per day.

The site has 87 parking spaces; if the applicant constructs 16 units, only 32 parking spaces are required for the residents. If the Master Plan amendment is approved, and the applicant successfully rezones the property to allow the 16 condominium units, the applicant will need to provide detail regarding the removal of the excess parking, and the use of the additional greenspace.

If the amendment to the Master Plan designation is approved, it is recommended that PUD zoning is pursued in order to ensure the City that the features of the development represented by the applicant are incorporated into the site plan.

The LUZ Committee thought that the idea had some merit but would require changing the designation of the Master Plan from the current Commercial designation to High Density Residential designation. In addition, the Committee expressed concern regarding the economic feasibility of converting an office building into residences.

The applicant met later with the Master Plan Committee. The Committee was generally in favor, but expressed concern that the residential units would be condominiums, rather than rental units. The Committee also expressed concern as to whether the conversion was economically feasible.

The applicant has indicated that he has secured bank financing for the project and has hired an architect to assist in the planning for the conversion to condominium use.

Schweitzer stated staff suggested to the applicant to hold off on the demolition of the building office suites and seeking a formal change to the Master Plan Land Use classification. If that goes according to his request he would then be in a position to ask for a rezoning to allow him to move forward. He needs to work out with his architect and building inspector on whether or not those garden level office suites can be converted and meet a residential code.

Vince Rostov, 2180-2186 44th Street was present. He stated he has owned the buildings for the past 3 years. He stated they are older and need to be updated. He stated it has been difficult to find long term office tenants. He stated he decided to explore the option to convert the buildings into a high-density residential condominium development, with a total of 16 condominium units. He stated the only thing that he doesn't like is that it has a really large parking space. He stated they were thinking about reducing the size of the parking lot and putting a playground with grass. He stated overall there is a housing shortage and people need an affordable place to live. He stated the office tenants that are there now would go to other office buildings.

Porter questioned if the condominiums will be owner occupied. Rostov stated once they are done with construction, they would sell them. Porter questioned if they will be rentals. Rostov stated he would like the commissioners opinion since he could put it in the bylaws. Rostov stated they addressed it with the bank and got the loan pre-approved but the final would be in September. The bank stated the more rules and regulations they have the harder it will be to get approval and harder for them to sell.

Porter questioned the size of the smallest unit. Rostov stated 659 square feet and the biggest unit will be 1,217 square feet. Rostov stated the building has an elevator and handicap ramp, which will give the opportunity for older people to purchase.

Benoit stated he doesn't want this to turn into apartment buildings. He stated he wants to be comfortable and wants the commissioners to be comfortable that it is not going to turn into an apartment. He stated as condominium units they will all have a different owner. Benoit stated there are investors that will buy the condominiums up and want to rent them out and keep it as rental property.

Holtrop questioned if staff had a suggestion for the rental ownership. Schweitzer stated when Cobblestone came in we had had a zoning provision under the PUD putting a restrictions on rentals and would likely look at the same approach. Pung stated if you are going to allow the high density it can be high density single family attached. They still have to come in and rezone the property.

VanderMeer stated his only comment is the excessive parking. Has there been thought to garages or carports. Rostov stated he was thinking of getting rid of some of the parking and putting the grass and playground in. Porter stated a garage with plenty of storage space would be very helpful.

J. New Business

There was no new business.

K. Other Business

1. City Attorney Training for Planning Commissioners

Attorney Dave Eberle gave an approximate one and one half hour training to the commissioners on various City and State laws and policies relating to a variety of issues including but not limited to open meetings and freedom of information.

2. Commissioners' Comments

None were made

3. Staff's Comments

None were made

L. Adjournment

Motion by Commissioner Benoit, supported by Commissioner VanderMeer to adjourn the meeting.

- Motion Carried (9-0) -

Meeting adjourned at 9:20pm

Respectfully submitted,

Ed Kape, Secretary