

**Planning Commission
January 24, 2024
Meeting Minutes**

Meeting Called to Order

Chair McGory called the Planning Commission meeting to order at 5:01 pm. The following Commissioners were present: Commissioner Castile, Commissioner Jackson, Chair McGory, Vice Chair Miller, Commissioner Poggiali, Commissioner Whelan, and Commissioner Zuilhof. Arin Blair and Alec Ochs were present on behalf of the Community Development Department, Stewart Hastings was present on behalf of the Law Department and Quinn Rambo was the acting clerk.

Approval of Minutes from November 22, 2023

Chair McGory introduced the first item on the agenda, which was the approval of the minutes from the November 22, 2023, Planning Meeting. Commissioner Zuilhof made a motion to approve the minutes as presented and Vice Chair Miller seconded the motion. Chair McGory called for a vote to approve the minutes as presented, and the motion passed unanimously.

Election of Officers

Chair McGory stated the next item on the agenda was election of officers. Chair McGory made a motion to nominate Mr. Poggiali as Chair and Mr. Miller to remain the Vice Chair. Commissioner Jackson seconded the motion. A vote was called and the Commission unanimously approved Mr. Poggiali as Chair and for Mr. Miller to remain the Vice Chair.

Commissioner Zuilhof asked who the guest was in the audience. Chair Poggiali introduced new City Commissioner, Dr. Richard Koonce, who was present to observe the Planning Commission.

Chair Poggiali added that he wanted to go over some housekeeping items. He asked if a Commissioner would like to speak to ask for the Chair's permission and that for each agenda item Staff would present their report and then the applicant would be asked to speak and then questions would be allowed by the Commissioners.

Chair Poggiali swore in all parties that were present to speak on behalf of adjudication items.

Adjudication Hearing

149 E. Water Street-

Monica Fletcher with Brady Sign Company, on behalf of the Family Health Services of Erie County, has submitted an application for a conditional use permit at 149 E. Water Street to allow an externally illuminated wall sign above the ground floor.

Chair Poggiali introduced the application and asked for the Staff report. Mr. Ochs stated the site of 149 E. Water Street was transitioning into an office and clinic for Family Health

Services of Erie County. The applicant wished to install an externally illuminated wall sign above the first floor. Per zoning code, any wall signage above what was considered the first floor required a conditional use permit. The building was being renovated into a medical center to provide primary care, behavioral health, a retail pharmacy, and a rooftop space. The first floor was planned for a primary care clinic, the second floor would be for behavioral health, the third floor would accommodate a pharmacy and office space. The hours of operation proposed would be Monday through Friday 8:00 am- 5:00 pm. Staff supported approval of the proposed Conditional Use permit at 149 E. Water Street parcel (56-00846.000) with the following conditions, that all permits were obtained through the Building Department, Engineering Department, Division of Planning and any other applicable agency prior to construction, light sources shall not be of excessive brightness, or cause a glare hazardous to pedestrians or auto drivers or objectionable to adjacent residential uses, the fixture was dimmable and could be turned down, and the light would be warm toned (3,000K or lower) white light, amber light, or filtered LED light sources. The proposed 36 square foot sign on the front façade would meet the Zoning Code Standards. Chair Poggiali asked if the applicant or the applicant's representative would like to speak. Mr. Nathan Glass of Brady Signs came forward to answer any questions. Commissioner Zuilhof asked if everything was in compliance with the exception of internal illumination. Mr. Ochs answered that everything for review tonight was for the location of the sign and that the illumination would be a Landmark Commission reviewed item. Mr. Ochs stated that the signage size was correct and allowed. Commissioner Jackson asked if an elevator would be installed. Mr. Voll, the applicant's representative, stated there was an elevator being installed. Commissioner McGory wanted clarification on if the Planning Commission was being asked to approve the dimensions and placement of the signs. Mr. Ochs stated the Commission was being asked to approve the location above the ground floor. Chair Poggiali asked if there were any other questions. There were none.

Commissioner McGory made a motion to approve the application subject to the comments, restrictions, and limitations made by Staff. The motion was seconded by Commissioner Zuilhof. Chair Poggiali called for the vote and all Commissioners voted to approve the motion, unanimously.

New Business

1033 Cleveland Road-

Kyle Grathwol, on behalf of 1033 Cleveland Road Holdings, LLC has submitted a similar main use permit application to allow automobile sales and automobile repair & maintenance as permitted main uses.

Chair Poggiali introduced the application and asked for the Staff report. Mr. Ochs stated the applicant wished to obtain a similar main use permit to allow the sales/ services of vehicles at this site. The property was currently zoned LB - Local Business zoning, which would not allow car sales as a permitted use. Car servicing would be limited to lubrication and minor repair services and would only be performed within an enclosed building. The site was situated on a highly trafficked and highly commercial corridor of Cleveland Road. The proposed use was not

out of line or out of harmony with the surrounding uses along Cleveland Road, the surrounding properties, or the previous use of the site. Staff determined the proposed similar main use was appropriate. The hours of operation proposed would be Monday from 10am to 3pm. All other days would be by appointment only and appointments would only be available between the hours of 8:15 am to 3:15 pm on most days. The neighbor to the north requested that the installation of a privacy fence not be required as part of this process and preferred for there not to be a privacy fence between his and the subject property. Staff supported the approval of the proposed Similar Main use at 1033 Cleveland Road (parcel 57-04642.000) with the following conditions, that all permits were obtained through the Building Department, Engineering Department, Division of Planning and any other applicable agency prior to construction, the automotive repair services were limited to operations within an enclosed building, the sale of motor vehicles be permitted on an open lot, provided that all requirements for front yards in the Business District as set forth in the Zoning Code were met, and for the business not to leave vehicles that were in their possession or care parked on the street overnight, nor customers to park on the street overnight. Chair Poggiali asked if the applicant would like to come forward to speak. Mr. Kyle Grathwol, the applicant, came forward to speak. He asked if any services would be allowed outside of the shop, such as airing tires and battery checks, because people stop at his shop because of the previous owner/ use of the building and did not want to turn away people in need. Mr. Ochs stated he took the language from the zoning district requirements and recommended minor services not be required to be completed in an enclosed space, but it would be at the discretion of the Commission. Mr. Hastings stated that a motion could be made to amend the wording to include minor repairs outside. Mr. Whelan stated he did not consider battery checks or airing tires to be repairs. He asked the applicant if there were any other services, he could think of that may be included in this request. The applicant stated he is not a general repair shop. Mr. Jackson agreed with Mr. Whelan. Vice Chair Miller also agreed, adding that auto part stores were able to change windshield wipers, and batteries outside. Vice Chair Miller asked for clarification about the privacy fence issue. Mr. Grathwol stated the neighbor, and he had agreed that leaving the current fence was beneficial to both properties because of the lighting and a privacy fence could possibly provide cover for someone trying to break into either property. Commissioner Zuilhof asked if the privacy fence was required per the code. Mr. Ochs stated the Commission had the authority to require up to a five- and half-foot fence but it was not required. Chair Poggiali stated that he thought the applicant had given the property some great curb appeal. Commissioner Castile asked how many vehicles were usually in possession by the applicant. Mr. Grathwol stated right now he has four vehicles but two were stored offsite. Mr. Grathwol added that a neighbor had asked permission to use the parking lot on the weekend for parties at neighbor's residence, and Mr. Grathwol had agreed.

Commissioner Zuilhof made a motion to approve the application with the conditions recommended by staff. The motion was seconded by Commissioner Castile. Chair Poggiali called for the vote and all Commissioners voted to approve the motion, unanimously.

Zoning Code Amendment for Exterior Light Fixtures

Chair Poggiali introduced Ms. Blair to present the zoning code amendment for exterior light fixtures. Ms. Blair stated that Staff proposed, with encouragement from City and Planning Commissions, to initiate change in the zoning code to include a “fully shielded design” lighting definition and to add “fully shielded design” language and related exterior lighting regulation to zoning code sections 1107- definitions, 1145.17- Landscape Features and Yard Structures, 1149.10 Site Illumination, and 1183.06 Streets. The proposed amendment would establish requirements for dark sky friendly development and help prevent light pollution in the City. This would benefit public interest by protecting maritime navigation safety as a port city and prevent glare or over brightness that could cause nuisance and/ or safety concerns. Staff researched other cities for existing regulations for dark sky lighting or exterior lighting. Staff then drafted a simple straight forward amendment that was reviewed by the Law Department and City Leadership before being brought forward to the Planning Commission. Ms. Blair then reviewed each component of the amendment, which included definitions, fixture design, color temperature, and façade/ feature lighting for the Commission. Chair Poggiali thanked Ms. Blair for her presentation and the helpfulness of the graphics in the presentation and asked if the Commission had any questions. Vice Chair Miller asked about how lighting the flag would work with these regulations. Ms. Blair stated that the site feature should be absorbing the light and that a targeted light would be the best solution. Commissioner Jackson and Commissioner Castile both suggested a light above the flag shining down would be preferable. Commissioner Zuilhof gave a description of past attempts by the Planning Commission to implement a dark sky ordinance language and how the technology of lighting, such as the introduction of LED lighting, impacted passing any previous legislation. Commissioner Whelan asked where the City’s current streetlights fell in the diagram shown on best options to unacceptable options. Ms. Blair stated that many of the City’s streetlights would be considered under the unacceptable design depicted in the graphic. Commissioner Whelan asked what the relevance of this ordinance would be on what is already existing in the City. Ms. Blair stated it would apply to new development only. Commissioner Whelan stated he was worried the language would penalize future applicants who were trying to light their buildings in a good way and thought the language of the amendment needed more clarification. Commissioner Jackson asked if the State had any regulations regarding lighting and how does the proposed amendment compare. Ms. Blair answered that to her knowledge that there were not any that she was aware of and asked Mr. Hastings if he knew of any. Mr. Hastings stated there were Federal regulations regarding lighting around airports and regulations regarding colored lights around ports that could be confused with navigation aids. Commissioner Castile asked if the 3000k or lower would address excessive lighting. Ms. Blair confirmed that was correct. Chair Poggiali stated that this amendment was forward-looking and could be challenged down the road, and stated enforcement is an open question. Mr. Hastings reiterated the regulations would be prospective only and not retrospective. Commissioner Zuilhof asked how this amendment addressed the luminosity intensity and if the Commission was being asked to recommend this amendment to City Commission. Ms. Blair stated that the city does not have the capability to measure

luminous intensity and that she would leave it up to the discretion of the Commission whether they wanted to recommend this amendment to the City Commission. Commissioner Zuilhof stated he would want to see some type of quantifiable standard for luminous intensity established and that it could not be left to arbitrary evaluation. Chair Poggiali asked the Commission if they would like to table the item for the next meeting and give Ms. Blair their suggestions at the next meeting. Commissioner Whelan stated that for the last 5 years the Commission had not approved a new site plan without requiring lights that meet the criteria mentioned in the amendment. Commissioner Whelan made a motion to table the item and the motion was seconded by Commissioner McGory. Chair Poggiali asked the Commissioners to send their questions and comments to Ms. Blair within the week to be addressed at the next meeting. Commissioner McGory asked if the amendment was needed or could recommendations be used for new projects. Commissioner Mr. Ochs stated currently Staff could recommend dark sky friendly fixtures, but the issue was that there was currently no definition in the code, so there is not a clear standard to apply to each case. Commissioner Zuilhof stated that City needed an ordinance for lighting and asked for the law director's comments. Mr. Hastings stated that light and sound were very similar in that enforcement was difficult because of the inverse square rule and it was very difficult to have an objective standard, but he felt that this was a step in the right direction. Commissioner Jackson stated that the problem wasn't how bright the light was but where the light goes. Commissioner Castile asked if it was possible for the City to set a quantifiable standard for luminous intensity and if there was standard, was it realistic to expect the City to be able to enforce the standard. Ms. Blair stated that Staff selected a simple and enforceable plan to the extent that the City could ask site plan applicants to provide the design of the fixtures and a manufacturer's document of the bulb capability. Chair Poggiali asked how many complaints the City had received regarding this topic in the last year. Mr. Ochs stated that he had not received any complaints, but he could not speak for the Code Compliance Department. Commissioner McGory stated that the Sports Force Park was a good example of nuisance light issue.

Chair Poggiali asked the clerk to read the motion. Ms. Rambo stated the motion was to table the item until the next Planning Commission Meeting. The motion was made by Commissioner Whelan and seconded by Commissioner McGory. Chair Poggiali asked for the vote to be called. The motion passed with (4) votes in favor of tabling the item and (3) against the motion. Commissioners Castile, Jackson, and Vice Chair Miller were opposed to tabling the item.

Adjournment

Chair Poggiali adjourned the meeting at 6:23 pm


Next Meeting:

February 28, 2024, at 5:00pm.

Approved:



Clerk



Chair/ Vice Chair