

CITY OF WARREN
PLANNING COMMISSION
PUBLIC HEARING

Regular Meeting held on March 13, 2023, at 7:00 p.m.,

A Regular Meeting of the Warren Planning Commission was called for Monday, March 13, 2023, at 7:00 p.m., in the Warren Community Center Auditorium, 5460 Arden, Warren, Michigan 48092.

Commissioners Present:

Sultana Chowdhury
Claudette Robinson
Michelle Tutt
Delwar Ansar
Mahmuda Mouri, Assistant Secretary
Warren Smith, Secretary
Merle Boniecki, Vice Chair
Garry Watts, Ex-Officio
Jonathan Lafferty, Ex-Officio

Also present:

Ronald Wuerth - Planning Director
Michelle Katopodes – Planner III
Mark Gorbett – Planner I
David Crabtree - Temporary Office Coordinator
Jasmine Early – Planner Aide
Mary Michaels - Assistant City Attorney
Patrick Conlin - Communications Department

1. CALL TO ORDER:
Vice Chair Boniecki calls the meeting to order at 7:00 p.m.
2. PLEDGE OF ALLEGIANCE:
3. ROLL CALL:

Secretary Smith – I need a motion to excuse Commissioner Kupiec. He had eye surgery today.

MOTION:

A motion was made by Commissioner Chowdhury to excuse Commissioner Kupiec, supported by Commissioner Tutt. A voice vote was taken and the motion carried unanimously.

ROLL CALL:

The motion carried as follows:

Commissioner Chowdhury..... Yes
 Commissioner Robinson..... Yes
 Commissioner Tutt..... Yes
 Commissioner Ansar..... Yes
 Commissioner Mouri..... Yes
 Commissioner Smith Yes
 Commissioner Boniecki..... Yes

4. APPROVAL OF THE AGENDA:

Commissioner Mouri: I'd like to amend the agenda discussion regarding adding alternates. So, during the discussion part.

Vice Chair Boniecki: Alternates, as in officers to each meeting or in general? Add it to the bylaws?

Commissioner Mouri: Yes. To the bylaws, too. So yes, bring it up in the discussion so we can talk about the alternates.

Vice Chair Boniecki: Okay.

MOTION:

A motion was made by Commissioner Mouri to amend agenda, supported by Commissioner Smith. A voice vote was taken and the motion carried unanimously.

MOTION:

A motion was made by Commissioner Smith to approve the agenda, supported by Commissioner Robinson. A voice vote was taken and the motion carried unanimously.

5. APPROVAL OF MINUTES: February 27, 2023MOTION:

A motion was made by Commissioner Tutt to approve, supported by Commissioner Robinson. A voice vote was taken and the motion carried as unanimously.

6. PUBLIC HEARING ITEMS:

- A. AMENDMENT TO APPENDIX A, ARTICLE XXI-A; Proposed ordinance amending Appendix A, Article XXI-A Village Historic District, DIVISION 1 - GENERALLY, Section 21A.01 (c), (d), (f) – Background and purpose, Section 21A.02 (a) and (b) – District Boundaries, Section 21A.03 - Definitions, Section 21A.04 - Reserved; DIVISION 2 – MEMBERSHIP, POWERS, AND DUTIES, Section 21A.07 (b) - Established; membership; terms; vacancies, Section 21A.08 (h), (l), (m), (q), (r), and (s) – Powers and duties, Section 21A.12 (a) (2) - Permit; DIVISION 5 – PENALTIES, addition of Section 21A.32 – Historic District Boundary; Amended ordinance of Article XXI-A is to bring it into conformity with state law so that the City of Warren may apply for a Certified Local Government (CLG) designation. **Tabled from the January 9, 2023 Planning Commission meeting. The Planning Director recommends that this item remain TABLED indefinitely, as further discussion is required between the Planning Staff and the Attorney’s Office. When this item is brought back before the Planning Commission, new public notices shall be sent.**

Vice Chair Boniecki – Mr. Wuerth, you wish to speak to add this?

Mr. Ron Wuerth – Just a little bit here, Ms. Vice Chair. Just as it says staff has recommended to keep this on the table and actually we want to table it indefinitely. This is going to take more time than we thought. We did an extensive review and found there are a lot of questions still that need to be answered. So, with that we’re looking to have it tabled indefinitely until we can get it back on. We’ll put the notice back in the newspaper as necessary and move forward then. But right now there’s still quite a bit of work to do.

Vice Chair Boniecki: Thank you. Do we have a motion to table indefinitely?

MOTION:

A motion was made by Secretary Smith to table indefinitely, supported by Commissioner Tutt.

ROLL CALL:

The motion carried as follows:

- Commissioner ChowdhuryYes
- Commissioner Robinson..... Yes
- Commissioner Tutt Yes
- Commissioner Ansar..... Yes

Commissioner Mouri..... Yes
 Commissioner Smith..... Yes
 Commissioner Boniecki..... Yes

B.

SITE PLAN FOR BUILDING AND PARKING LOT ADDITIONS FOR MARIHUANA PROCESSOR FACILITY; located on the west side of Groesbeck Highway, approximately 272.29 ft. south of Frazho Road; 25855 Groesbeck Highway; Section 24; 25855 Groesbeck LLC/Nita Murad (Brian Barringer). PSP230001 Tabled from February 27, 2023.

PETITIONERS PORTION:

Mr. Brian Barringer – Good evening. My name is Brian Barringer, I'm representing Nita Murad. I'm also the CPA for the group that's asking for these types of things. So, where do I go next? I guess we're trying to get approved, these recommendations.

Secretary Smith reads the following correspondence:

Taxes: Current.

ENGINEERING: Preliminary review of this site indicates that Planning Commission approval should be contingent upon the petitioner's compliance with the following condition(s):

1. Site shall comply with the current City of Warren Storm Ordinance. Detention and pretreatment shall be required.
2. The outside perimeter of all paved/parking spaces shall be minimum 6" concrete curb and gutter. provide elevations.
3. Any construction within Groesbeck Highway R.O.W. shall require a permit from the moot.
4. Site plan shall show and identify the location of all existing and proposed underground utilities including size, connection, and discharge point in the vicinity of the project.
5. Soil erosion and sedimentation control permit/waiver shall be required from the Macomb County Department of Public Works.
6. Site plan shall be drawn to scale. Show the drawing scale on the plan.

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FIRE: Approved.

AT&T: AT&T does have facilities on the property and seeing the property, but they should not be affected as long as proper Miss Dig procedures are followed. As such, AT&T has no objections.

COMCAST: Please see attached completed utility request markup. Please note that there is an aerial coax feed from the pole to the west side of the building. As long as that does not interfere with the second story renovations, there would be no conflicts.

MCDR: No Objections.

MCPW: It appears there will be no work within the Schoenherr Relief Branches Groesbeck Lateral Drain that is within the road right of way, therefore this office would have no objection to the proposed building and parking lot additions.

However, prior to site plan approval, any project that impacts a county drain shall apply the Macomb County Public Works office design standards. Please note that a formal plan review and approval by the engineering and soil erosion departments from this office will be required prior to constructions.

MDOT: Site doesn't appear to have work in MDOT right-of-way.

Mr. Ron Wuerth reads the recommendation of the Staff:

It is recommended that the site plan for building and parking lot additions for marijuana processor facility be approved. With the standard conditions of the Planning and more specifically:

1. Five copies of revised site plans must be submitted indicating the following:
 - A: A north arrow with the 1 inch = 30-foot scale shall be indicated on the plan.
 - 1B. Identify the locations of all overhead doors and access doors on the site plan.
 - 1C. The site data chart properly indicates the front setback as 50 feet but the plan shows a 25-foot setback line along Groesbeck Highway. Update the plan to show the front setback line of 50 feet.
 - 1D. A dimension of 20 feet shall be provided between the existing building and the north property line on the plan.
 - 1E. Add the area of disturbance on the site plan. For disturbance over 1 acre, the project must follow the city's storm water ordinance.
 - 1F. A note must be provided stating open storage of materials shall not be permitted on site.
 - 1G. The

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interior parking spaces shall be a minimum of 20 feet in length. Any parking spaces located along property line shall be a minimum 22 feet in length. 1H. The planning staff met with the petitioner and representative on March 7, 2023.

The petitioner explained the staffing needs for the proposed project and the reason for additional parking over and above the minimum required by the Zoning ordinance. The following changes were agreed upon at the meeting: 1. The existing driveway approach to be removed and replaced with concrete curbing and landscaping. A new approach, you'll kind of see it up there coming in off of Groesbeck, a new approach 26 feet to 32 feet in width shall be provided per MDOT's approval. South of the existing curb cut providing improved access and circulation to the site. 2. The removal of five parking spaces located within the front setback to the east of the building. This change will allow for approximately 115 parking spaces, ensure there are sufficient ADA parking spaces. Once the final number of parking spaces is determined, update the site data chart with the total parking spaces.

1I. A note shall be provided stating all lighting on the site shall be shielded and not encroach upon abutting properties. The light poles shall be no higher than 20 feet. All glare shall be eliminated from all light fixtures. Upward directed lighting shall not be permitted. 1J. Indicate all existing and proposed lighting on the site and building. 1K. A note must be provided all landscaping areas shall be automatically irrigated. 1L. The existing fence and gates shall be painted black on the entire site.

Condition #2. Two copies of revised landscape plans shall be submitted indicating the changes on the site plan regarding the relocated driveway to Groesbeck Highway and the reduced parking area.

Condition #3. As a condition of 2018 site plan approval for the building constructed at 14350 Frazho Road the city attorney's office approved a draft format and access document between 14350 Frazho Road and 25855 Groesbeck Highway. Based on city records, this document was never recorded. Additionally, the only area described was an area measuring 245.91 feet long by 19 feet in width located between 14350 Frazho Road and 25855 Groesbeck Highway.

The petitioner also expressed interest in obtaining access to Frazho Road, which will require a new easement agreement with the owner to the north. This document must be approved in draft format performed by the city attorney prior to it being recorded at the Macomb County Register of Deeds. The copy of the document shall be provided to the Planning Department. In addition, the easement area and the description must be indicated on the plan.

Condition #4. The following variances recommended by Planning staff may need to be obtained from the board of appeals prior to release of the site plan to the building division. And that is A. Four fences, located 19.6 feet from the front, and that's Groesbeck Highway, the front property line. And B. To construct parking 25 feet from the front, and that's Groesbeck Highway and the property line.

Condition #5. A performance bond in the amount of \$3900 be posted according to the estimated cost of \$130,000 by the petitioner.

PUBLIC PORTION:

Mr. Kabacinski: Good evening, Planning Commission. Today I rise before you as a citizen in the city of Warren and not as a council member for District 5. A little bit of background, I am retired from military and federal law enforcement. Under federal law, marihuana is still illegal. The processing, cultivation, possession and use of marihuana is still illegal under federal law. Any action that we take forward in this city with having to do anything with marihuana would be a violation of federal law.

I don't know if the members of the Planning Commission took the same oath of office that I did, but if it is in the same vein, the members of council, the members of the Planning Commission, if you took the oath of office to defend, support, and uphold the constitution, you have to uphold federal law. The congress and the senate have not decriminalized marihuana therefore it is still the law of the land. The people of the state of Michigan spoke in making marihuana illegal, but as elected officials who swore an oath to uphold our constitutional federal law, we're not able to violate the federal because they would be malfeasance of office. We would be violating our oath of office by taking up any further marihuana, anything subject having to do with marihuana in the city of Warren.

Now, I'm not going to speak on the rest of Macomb County or Centerline, but I live here, I work here, and I'm concerned about this city. I grew up in this city and I'm worried about what direction we're going in to. As far as the situation with the site plan, smell and stench of the marijuana is a very big complaint of the residents. Not only in District five, but all over the city. People can smell the stuff and they don't want to smell it. They don't want to see it. Now, granted this is an industrial area, but still, kids can smell it and get a contact high from it and adults can smell it as well. And they can't open their windows in the summertime because they have to smell this stuff.

I would hope that you look in to the legality of the measure that we're being asked – that the Planning Commission is being asked to approve. Search your soul and find out if this is what's best for the city of Warren. Because the proliferation of marijuana is not making our city better. I don't care how much money it brings in; I don't care how many jobs or how many taxes. You cannot put a price on life. And if anyone here is not watching the news lately, people are dying from this stuff. Thank you.

Vice Chair McClanahan: Would anybody else like to speak on this item?

PETITIONER'S PORTION:

MOTION:

A motion was made by Secretary Smith to approve with discussion, supported by Commissioner Mouri.

Secretary Smith – To the petitioner, can you come up, please?
Good evening, sir. Is this an existing marijuana facility already?

Mr. Barringer – No.

Secretary Smith – You're going to make it one?

Mr. Barringer – It's a manufacturing facility. So it's not retail, it doesn't go the end user – the consumers in Warren. They're being produced here and then being supplied to the state. So, it's not retail. It's 125 jobs of produced product, controlled, and then distributed to the state where it'll be retailed.

Secretary Smith – So, will you have any issues with the smell going out in to the surrounding neighborhoods?

Mr. Barringer – No. Everything that we put any product in is in a controlled environment and we won't even have flower. So it's actually processed oil that would be going in. It doesn't have that stench. It's not production, it's not a grow, it's literally a manufacturing facility that already has the raw goods in the form that we need them to process the product and it's not flower.

Secretary Smith – One of the issues I had with the project, when I went by to look at it when it first came before us, was that you want to add an addition to the second story on the front part of the building. And then redo the parking. And when I drove by there, the addition was already up. It seems like you have the idea of this is what you want to do and you go to your architect and you have them make plans, then they should come before the Planning Commission to go over the plans to see if there are things that need to be changed or addressed before it comes to us.

I looked at the number of recommendations that we had, and it's quite a few recommendations which, I feel, that if it was done properly, it might have eliminated some of those recommendations. I just think that you put the cart before the horse on that one. Another thing, too, if there's a bunch of recommendations, you have to make a bunch of changes. Now that's money that's costing you because now it wasn't done right in the first place.

Mr. Barringer – Understood.

Secretary Smith – Thank you, sir. Thank you, madam chair.

Mr. Barringer – Yes.

Commissioner Mouri – Madam chair, to the petitioner. What are the hours of operation?

Mr. Barringer – Standard business hours. 8-5 p.m. But for the front office administrative, it could be longer. But no operational, it's normal hours, business hours.

Commissioner Mouri – I know with the parking addition; how many employees are you thinking you're going to have in that facility at one time?

Mr. Barringer – We're likely to have about 100 employees, but we have inspectors from the state of Michigan always coming in, full-time security on site. So we're all in compliance and following the rules and regulations of the state of Michigan.

Commissioner Mouri – I know you mentioned the fact that there's going to be processed goods that are coming in. Just for knowledge, what is being exported out?

Mr. Barringer – So they're cannabis related products like edibles, and those kinds of things that are finished goods. The raw materials are already produced and they're brought in and they're filled for that purpose. So it's all in like oil product that gets infused in the final goods. It's all state tested before it's brought in and at the time it arrives and when it goes out it gets state tested for chemicals or any other bad things that can harm people.

Commissioner Mouri – Thank you.

Commissioner Robinson – I have a question to the petitioner as well. Just to help me to understand, are these going to be plants coming in?

Mr. Barringer – No.

Commissioner Robinson - So the plants will not be coming in at all?

Mr. Barringer – They've already been liquefied.

Commissioner Robinson – They've been liquified?

Mr. Barringer – At a different facility. We buy the raw materials to put into the food for the extraction process –

Commissioner Robinson – I see. So we don't have to be concerned about odor?

Mr. Barringer – No.

Commissioner Robinson – Okay.

Mr. Barringer – It's strictly a production manufacturer and that's what it's always been and that it was a Tier 1 supplier and it's going to turn into this. It's just no different

Commissioner Robinson – Okay.

Mr. Barringer – More security and protection, that's about it.

Commissioner Robinson – Okay. I understand. I just wanted to be clear on that.

Mr. Barringer – Yes.

Commissioner Robinson – No odor?

Mr. Barringer – Correct.

Commissioner Robinson – Thank you.

Mr. Barringer – And we don't sell to the end user, so it's being wholesaled out to the consumers across the state of Michigan. So it's not retail.

Commissioner Robinson – So you'll have delivery, trucks coming in and taking them to various locations?

Mr. Barringer – So product that's brought in or out is directed by the State of Michigan under licensed vehicles. They're usually small box trucks or vans that are licensed by the state. So it's not like what it used to be where they're 18-wheelers coming through there.

Commissioner Robinson – Okay.

Mr. Barringer – It's going to be a lot less.

Commissioner Robinson – Would they be marked?

Mr. Barringer – Whatever the State of Michigan requirements are, those vehicles are licensed by those companies to transport the product.

Commissioner Robinson – Okay. Thank you.

Mr. Barringer – Yep.

Commissioner Chowdhury – I have a question. So will those delivery trucks be coming in during normal business hours?

Mr. Barringer – Yes.

Commissioner Chowdhury – Okay.

Mr. Barringer – Yep.

Commissioner Chowdhury – But you did state that there are going to be people onsite after regular business hours as well?

Mr. Barringer – Well, someone like me who's an accountant, and I'm preparing accounting records all the time. But it would be the administrative offices out front. So the front offices are administrative and the back is manufacturing warehouse.

Commissioner Chowdhury – You have it broken down in to different shifts kind of?

Mr. Barringer – No. Production is 8 a.m.-5 p.m. in the back in the warehouse and in the front it's just an administrative staff that usually will maybe stay after 5 p.m., but 8-5 p.m. usually.

Commissioner Chowdhury – Okay.

Vice Chair Boniecki – Any other commissioners?

Secretary Smith – Madam chair?

Vick Chair Boniecki – Yes.

Secretary Smith – One additional question, sir. What was the purpose of the second story?

Mr. Barringer – Because it requires a lot of State of Michigan involvement and compliance officers. We needed work spaces to work with them to demonstrate what we're doing and planning and all that kind of stuff. So, authorities are in there at all times from the State side, in and out. And those are people we'd be meeting with and stuff like that.

Secretary Smith – All right. Thank you, sir. Thank you, madam chair.

Vice Chair Boniecki – Yes.

Commissioner Mouri – Can I make the performance bond in to a cash bond? Can I make a motion for that?

Vice Chair Boniecki – Yeah.

Secretary Smith – So, it changes my motion then, because I had motion to approve it so my motion gets eliminated is that correct? The ones that made the motions at first should've been the ones that make the motions for the cash bond.

Attorney Michaels – Was there a second?

Vice Chair Boniecki – Yes.

Attorney Michaels – If there was a second, it goes back to the body to decide whether the motion would be withdrawn or proceed.

Secretary Smith - I could just amend my motion, and make the motion to approve with the cash bond.

Vice Chair Boniecki – Yes. Okay.

MOTION:

A motion was made by Secretary Smith to approve with a cash bond, supported by Commissioner Mouri.

ROLL CALL:

The motion carried as follows:

Commissioner ChowdhuryYes
 Commissioner Robinson..... Yes
 Commissioner Tutt Yes
 Commissioner Ansar..... Yes
 Commissioner Mouri..... Yes
 Commissioner Smith..... Yes
 Commissioner Boniecki..... Yes

Vice Chair Boniecki – Before we go on to item 6C, I’d like to recognize Ex-Officio Council member Mr. Watts, Mr. Lafferty, and also Mr. Kabacinski. Thank you.

C. REQUEST FOR REZONING WITH CONDITIONS;

Two properties located on the north and south side of Ten Mile Road, approximately 326.85 ft. east of Mound Road; from the present zoning classification of “C2”, General Business District, “M2”, Medium Light Industrial District, “P”, Parking District (north property, Section 21) and “R-1-P”, One-Family Residential and Parking District (south property, Section 28) to “M-1”, Light Industrial District; Sections 21 & 28; 6014-6015 Ten Mile Road (formerly DeCarlo’s Banquet and Convention Center); SEH Warren, LC/Frank Jarbou (Will Grapentine); PR230002. **The petitioner has requested to remove this from the agenda, and thus it will NOT be heard at this meeting. When this item is brought back before the Planning Commission, new public notices shall be sent.**

MOTION:

A motion was made by Secretary Smith to remove from the agenda, supported by Commissioner Tutt.

ROLL CALL:

The motion carried as follows:

- Commissioner ChowdhuryYes
- Commissioner Robinson..... Yes
- Commissioner Tutt Yes
- Commissioner Ansar..... Yes
- Commissioner Mouri..... Yes
- Commissioner Smith..... Yes
- Commissioner Boniecki..... Yes

D. SITE PLAN FOR SEASONAL OUTDOOR RETAIL SALES FOR

FIRE WORKS: located on the southeast corner of Schoenherr and Thirteen

Mile Roads; 30810-30830 Schoenherr Road; Section 12; Schoenherr 13 LLC/Ryan Kattoo (Family Fun Fireworks/Mike Kanakry); PSP230003.

PETITIONER’S PORTION:

Caren Burdi – Good evening. Caren Burdi on behalf of the petitioner. My address is 31851 Mound Road, Warren, Michigan. We're here before you tonight for permission of a site plan for seasonal outdoor retail sales for fireworks. This plan is at the corner of 13 Mile and Schoenherr. The fireworks duration is proposed for approximately three weeks. This year we're asking for June 13, 2023 through July 6, 2023. The hours of operation are 10 a.m. – 10 p.m.

On the plan there's a notation that there is a fence that will be around the site. That is not accurate. That note will be taken off the plan when we submit our final plans to the Planning Department. There will be no 4-foot-high chain link fence around the tent. That seems to be a mistake that was made by the architect. Had an opportunity to review the recommendation by the Planning department, and everything seems to be in order. There are a couple of items that are directed towards the landlord.

We understand that when these items come up it's important to try to revitalize and bring up to date different properties, however, item I, which talks about a six-foot-high brick embossed poured concrete wall, I had a chance to speak to Mr. Ron Wuerth of the Planning Department and he indicated to me that in fact, the wall that's there now may have been what the standard was at the time that this was built.

So I am going to bring this to the landlord's attention but I'm not sure that in fact, the wall will be required. Possibly if they do more extensive renovations or something along those lines, that would be something that would need to be done.

Under Item J, the landlord needs to explain how they handle their trash. I will get with them and provide that to the Planning Department. And then item 2, we're being asked to get a recorded document of an ingress/egress shared parking document from the Macomb County Records. We will get that and submit it to the Planning Department as requested.

And then Item 3 is that the two parcels that are on this location, the Planning Department would like them combined. I am going to discuss that with the landlord about getting those parcels combined. But again, those are items that are directed towards the landlord. I don't know how much control we have with that, but I will be discussing it with them and bringing those items to his attention.

So with regard to the recommendations with what I just discussed, we're in agreement with them.

Vice Chair Boniecki – Thank you.

Secretary Smith reads the following correspondence:

TAXES: Current.

AT&T: No objection.

COMCAST: No objection.

FIRE: State of Michigan must approve all fireworks in Michigan.

MCDR: No objection.

Mr. Ron Wuerth reads the recommendations of the staff:

Thank you, madam Vice Chair, the recommendation is as follows. It is recommended that the site plan for seasonal outdoor retail sales for fireworks be approved with the standard conditions of the Planning Commission and more specifically; 1. Five copies of revised site plans must be submitted. Notations to be made on the site plans including the following. 1A. The present zoning and its dimensions shall be indicated on the site plan. 1B. Setback dimensions shall be provided between the tent and the north, west and south property lines.

1C. Time period in hours of operation of the firework sales shall be indicated on the plan. 1D. The square footage of each individual retail space shall be indicated on the plan. 1E. The dimensions of drive aisles and parking spaces shall be indicated on the plan. 1F. Accessible parking spaces shall be indicated on the plan. 1G. A note shall be provided stating all lighting on the plan shall be shielded and not encroach upon abutting properties. The light posts shall be no higher than 20 feet. All glare shall be eliminated from the light fixtures. Upward directed lighting shall not be permitted. 1I. The six-foot-high brick embossed poured concrete wall may be required along the east property line abutting the R1C one family residential district.

The three-to-four-foot high concrete block wall exists along the east property line. The wall tapers off closer to 13 Mile Road. The

existing wall content of concrete block is not permitted. 1J. A trash enclosure must be provided on the site plan with the following notes stating a trash enclosure measuring a minimum 10 foot by 10 foot shall be constructed of six foot high brick embossed poured concrete walls with 45 degree angle cap. Half screen gates to be placed on upon a minimum 10 foot by 18 foot concrete pad that provides an 8 foot wide apron.

Masonry blocks shall not be used as a construction material. Condition #2. The petitioner must provide a recorded document for ingress/egress and shared parking with the owner of the property abutting to the north. That's 13-12-101-004. And the south. That's 13-12-101-032. The petitioner shall provide blanket reciprocal parking agreement documents liber 2039 Page 798 and liber 1504 page 564.

Condition #3. The two parcels identified as 13-12-101-003 and 005 must be combined into one parent parcel. An application must be submitted to the Planning Department requesting the approval of the combination. Condition #4. The petitioner shall be required to obtain a variance from the Board of Appeals for seasonal retail for each year and the staff supports that.

Condition #5. A performance cash in the amount of \$500 be posted. The proposed amount should be enough for the final cleanup of the site. Number 6. All regulations for outdoor retail sales found in section 4.53 the Zoning ordinance shall be complied with.

PUBLIC PORTION:

Secretary Smith – Madam chair?

Vice Chair Boniecki – Yes.

Secretary Smith – I have a letter from a customer that wanted to be read at the meeting tonight.

Jack E. Drygalski
30959 Bradner
Warren, Michigan 48088

Warren Planning Department
One City Square, Suite 315
Warren, Michigan 48093

March 2, 2023

Megan Price CER-9296
March 13th, 2023

Dear Sir/Mam,

Thank you for the notice of the public hearing concerning the outdoor retail sales for fireworks on the corner of 13 Mile and Schoenherr road. I have several concerns about this property being used in this way.

A portion of the parking of vehicles will be taken away from the patrons shopping at the current retail stores. Disrupting and damaging public property due to the construction and removal of these temporary tents. The most disturbing one is the Shell Gas station on the premises. The area already has traffic problems since the opening of new Kroger grocery store.

I thought we had local legislation adopted for more restrictions on the sale of fireworks. There is no clear law either way on this situation, so the question is all my years living here why now? The only payoff we get out of this is somebody getting seriously hurt, smelling smoke, picking up trash left behind, and the constant noise.

Don't get me wrong, I do enjoy the thrill of watching fireworks when local authorities do their own safely. A great family experience.

There are many places already established for the sale of fireworks. One more is not needed. Those individuals who seek to buy fireworks know where to purchase them. Private sales should be harder to access.

Cordially yours,

Jack Drygalski

Ms. Michelle Chivers – Hi, sorry. I've never done this before. My name is Michelle, lived in the area for over 51 years. My parents are the original owners of the home. Sorry. I just found out a friend that lost her son. Excuse me.

I agree with the letter about fireworks and having the fireworks stand in the neighborhood especially with a gas station right there. With having fireworks stand on the corner, we have to worry about trash. It's bad enough in our yards, we already have trash. Fireworks are extremely unsafe under people that don't have experience. Like

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when you go to these family outings. You have professionals all do fireworks.

Fireworks are dangerous. They light fireworks off in my neighborhood 24/7 come June, July, May. They light fireworks off at all god hours of the night. You have – I have two animals I have two kids myself. We get up at 5 a.m. every morning. To have to deal with fireworks constantly and now to worry about if a fireworks stand goes on our corner. I'm going to be constantly worried. God forbid if somebody drops a cigarette and causes a fire and causes all these fireworks to go up.

What happens to us living there? Especially with the gas station. We have a gas station on the corner that the fire stand is going to go in to. We have a gas station across the street, kitty corner from it. We have the Kroger gas station; we have three gas stations that are going to be right next to this fireworks stand.

You have your Veterans; I have a Veteran that lives on our street and I'm sure if he's aware that this is going to happen I know he's not going to be very happy. You have PTSD, with people that are Veterans. You have families that have PTSD from whatever we've been through. Having a fireworks stand, I feel in my opinion, is very dangerous. And especially we have little ones living on that street. We have high traffic on that corner, with Krogers you have high traffic with that gas station. In my opinion it's very unsafe. So I'm sorry I had to come tonight. I just came from 16 and Harper. I'm glad I came. I agree with the person who wrote that letter. I have an elderly person that lives next to me.

Vice Chair Boniecki – Anyone else want to speak?

Ms. Caren Burdi – Madam chair, may I address some of the concerns?

Vice Chair Boniecki - Let us do the motions and then we'll open it up to you. We may have discussions for you.

COMMISSIONER'S PORTION:

MOTION:

A motion was made by Secretary Smith to approve, supported by Commissioner Tutt.

Secretary Smith – To Ms. Burdi. Good evening.

Ms. Burdi – Good evening.

Secretary Smith – I understand the concerns of the lady, especially the Veterans with the PTSD. My sister has it so I know what it's all about. I also understand the concerns about the gas station being there and the parking and everything else that they spoke about in the letter. I looked at the design, everything's going to be housed on two tables inside an enclosed tent. I guess the only thing I would be concerned about as far as that goes is the people that are operating it, how are they going to get rid of their trash?

I know that Mr. Wuerth wants the trash enclosure and we talked about a few other things which really rely on the owner and not necessarily the seasonal representation of the fireworks. But to me it seems like there's a lot of things in the recommendation -- Let me back up and ask one question first. Is this the first time this has been on this corner? I know I see them pop up everywhere. Is this the first time it's been authorized for this corner?

Ms. Caren Burdi – I haven't checked that but this is the first time that we've asked to be on this corner. My client has relinquished some other sites in the city of Warren, so it's not an increase of what would be happening, it's a replacement. So for example, at Hoover and 13 Mile, he's not putting up a tent there. He's telling me that may change. To my knowledge this is the first time a tent has been put up in this location.

Secretary Smith – Is the owner here from the fireworks place?

Ms. Burdi – Yes.

Secretary Smith – Could you come up sir, please?

Mr. Kanakry – Sorry I'm a little slow. Waiting for a heart transplant

Secretary Smith – You're fine, I'm sorry. I guess I just wanted to ask you some questions.

Mr. Kanakry – No problem.

Secretary Smith – You've heard some of the concerns from the residents.

Mr. Kanakry – Yes.

Secretary Smith – What are your views on your concerns.

Mr. Kanakry – Concerns about the trash, number one, we go in and I've been on Hoover for many years, I've been on Dequindre and 11 Mile Road, 13 and Mound, I've been at many locations in Warren for over ten years now. And we never had a problem at any location. The fire Marshall that comes in, the inspectors that come in say I do the best of anybody in the state that they've ever seen.

We go in there, we set our place up, all boxes are taken out the first day. Before we even open, two days before we open, everything is all set up. No empty boxes, no trash what so ever except for the recipes that people do not want when we ring up a sale. There is no problem at all. We got fire extinguishers, and the state law is to be 50 feet from a gas station, everything that we've done that's required is done.

We do it perfect. There's never been a complaint, never been an accident, never been anything. I will not allow that. I have eight kids of my own. Half of my kids work and run it, in fact, there's three of them that are in college and they come from Florida and they work the fireworks and they pretty much have taken it over and that's their money for tuition and all that. But we've never had a problem, there's no garbage around. Any question you have, I'm able to answer it for you, sir.

Ms. Caren Burdi – Can I give a little bit more of a technical answer? I kind of want to alleviate some of the concerns that this woman has and has stated. We have to apply to the state --

Secretary Smith – Ms. Burdi, can I stop you for one second. Sir, why don't you go ahead and have a seat. I don't want you to have to have to stand up. Thank you for coming up.

Ms. Caren Burdi – For each firework location we apply to the State. To the state goes our copy of insurance, our site plan, our plan of how we will present the items. All of this goes to the State and gets put through plan review. If the State gives you a license, that's not the end of it. The State then has assigned, either through the city of Warren, if the city of Warren wants to participate, or directly from the State, there is a Fire Marshall assigned to each site.

That Fire Marshall comes out before the sales, during the sales, they send out people to test us to make sure we're not selling to children. They come out to check the location to make sure we're following the rules, nobody sets off fireworks near a fireworks tent. Not allowed, it gets stopped immediately. People don't even try that, though. But there's no setting off of fireworks by this fireworks tent.

So, I think in some ways I have to alleviate that concern that selling fireworks somehow equates to setting off fireworks, because that's not the case. The quickest way to lose your State of Michigan license, set off fireworks by your fireworks stand. That's a really quick way to be shut down forever. And it won't just be this site, it would be any site that he's running. So I do want to assure you with regard to that aspect. The other part of it is, he has to maintain on a daily basis, any trash they make gets taken out. That's one of the things that the Fire Marshalls look at. They don't want a proliferation of trash at this site, they want that trash being taken out regularly and that does occur.

Like I said, they come to the site they have the ability to issue tickets, we have a petitioner who does not get tickets. They have the ability to issue tickets, he does not get tickets. He follows the rules and is in compliance. And then when he leaves, he cleans up the site. Sweeps up the entire site, etc. A lot of times he leaves it better than he found it, quite frankly.

With regard to parking, I do want to state that this site has enough parking. Even though the tent goes up and takes up a few of those parking spaces, there is enough parking for the tent and the retail stores. I actually live over there, myself, and I shop up and down Schoenherr, etc. And quite frankly that parking lot is a sea of cement. I've never seen it full, ever, at that shopping center.

The other thing is when we talk about the safety factors. From Lansing, they have a whole criteria of safety factors. There's a buffer zone, there's how the fireworks have to get presented, who can purchase who can purchase fireworks, two different kinds of fire extinguishers, signs on all sides that talk about the fact that you have to be over 18 to purchase fireworks, and signs that say do not discharge fireworks within 300 feet of this stand.

I will tell you in the past if someone tried to fire off any fireworks, we're on it. And quite frankly, if we have to stop them with the

police, we'll do that. So, the rules are followed. And I don't think that the fact that the fireworks are sold equates to them going off in their neighborhood.

I do sympathize with people who have PTSD and the fact that 4th of July is not their favorite holiday, that's for sure. Unfortunately the state has decided that fireworks are legal and if they're not purchased here, people purchase them at other stands and other stores.

I'm sorry I don't have a way that I can alleviate that, that's for sure.

Vice Chair Boniecki - Thank you. Any other discussion?

Secretary Smith – Mr. Wuerth, can you come up here, please?
Good evening, sir.

Mr. Wuerth – Good evening.

Secretary Smith – I noticed in the recommendations with the requirements for the trash enclosure and things like that. But then the cash bond is only \$500 which doesn't include any of that. Mostly all that would be on the owner to have those things taken care of. But being that this is a seasonal event that only happens 3 or 4 weeks, it seems like a lot of responsibility for the petitioner with the directed lighting, and this, that and the other, to me it doesn't seem that all that should fall on the petitioner because he's putting up a tent.

He's having everything in the tent, he cleans it up, he takes everything down, and then it's gone. It's only there 3 or 4 weeks out of a whole year. I could see if it was going to be there longer, where it was going to be seasonal, months and months, but you're talking 3 or 4 weeks. It seems like it's kind of a lot of stuff for the petitioner to go through. Maybe you can explain that to me.

Mr. Wuerth – Well, it matters not what the use is, and time. As far as our staff is concerned, we feel it's important for every retail, commercial, industrial place to have a facility, you know, something to put the trash in. This is our standard requirement and they did not indicate anything on the plan where they put their trash. As in the building, you can see on that plan, on the right side along the rear part, where do they put the trash. I think in the last picture, the trash

dumpster, but we want to know the location. Exactly where, see that right there.

We want to know the location of that. And hopefully it's placed so that it's out of the way of the traveler's way, and not seen too much by public. It's really our concern when they have something like that out there. Sometimes we have them put up a singular wall, say that was as the end part of the retail building. We wouldn't want that seen by the public. In this case I think they're more towards the middle. But that's what we've asked for. We asked for the trash enclosure, but tell us what you really have and put it on the plan. That's basically what we're trying to insinuate.

But what you have there, I didn't put it that way, but that's what it comes out to be for a situation like this basically turns out to be a temporary use, and a short one.

Secretary Smith – Thank you, sir.

Vice Chair Boniecki – Thank you. We had a motion. Roll call.

MOTION:

A motion was made by Secretary Smith to approve and supported by Commissioner Tutt.

ROLL CALL:

The motion carried as follows:

- Commissioner ChowdhuryYes
- Commissioner Robinson..... Yes
- Commissioner Tutt Yes
- Commissioner Ansar..... Yes
- Commissioner Mouri..... Yes
- Commissioner Smith..... Yes
- Commissioner Boniecki..... Yes

- e) SITE PLAN FOR A TAKE 5 OIL CHANGE SHOP; located on the northeast corner of Ten Mile and Schoenherr roads; Section 24; 25028-25036-25058 Schoenherr Road; Fairmount Properties, LLC/Anthony Rea (JM Civil/Kyle Flaming, P.E.). PSP230004. **The Planning Staff recommends that this item be TABLED, in order to give the petitioner sufficient time to address issues with the site plan.**

Mr. Sarandos -- Good evening, commissioners, my name is Phillip Sarandos. I work with JM Civil Engineering. I work with Kyle Flaming we also represent Driven brand who is the owner of Take Five. We received your comments on Friday and we will be addressing those and resubmitting.

Vice Chair Boniecki – You asked that this tabled. Do you know how much time you’ll need to have this tabled?

Mr. Sarandos – I’d like to get it back on to the April 24th agenda if possible.

Vice Chair Boniecki – Is that acceptable on our time frame? Okay. Do we have a motion table until April 24th, 2023?

MOTION:

A motion was made by Commissioner Tutt to table until April 24, 2023, supported by Commissioner Robinson.

ROLL CALL:

The motion carried as follows:

- Commissioner Chowdhury Yes
- Commissioner Robinson..... Yes
- Commissioner Tutt Yes
- Commissioner Ansar..... Yes
- Commissioner Mouri..... Yes
- Commissioner Smith..... Yes
- Commissioner Boniecki..... Yes

7. CORRESPONDENCE:

None at this time.

8. OLD BUSINESS:

- A. MAJOR SITE PLAN FOR CANNABIS FACILITY; (Formerly Site Plan for New Retail and Restaurant Building); located on the side of Dequindre Road; approximately 977.37 ft. south of Eleven Mile Road; Section 19; 26620 Dequindre Road; Geoffrey Sargent (Michael Malone). **Approved on December 7, 2020; Extension request to December 7, 2023. Tabled from February 27, 2023.**

PETITIONER’S PORTION:

Mr. Kevin Barbieri – Good evening, everyone, Kevin Barbieri appearing on behalf of the petitioners. We are just simply requesting an extension here. Essentially, we thought we had our tenant here and then certainly everything with covid and the changing economy, then we had a tenant here for a cannabis facility and the city of Warren was – there was some litigation, city of Warren suit was moving forward. They successfully appealed but then they successfully won their case with licensing but then the people that lost the case appealed to the Michigan Supreme Court.

We’re anticipating that the Supreme Court is going to reject hearing it. But we’ve just been waiting for this Supreme Court decision to come down. So essentially here we haven’t started construction since it doesn’t make fiscal sense to expend large sums of money into the property until these issues are resolved and we know that we can even have this tenant on our property at all and whether we’d be able to use the property at all. Therefore, we’re requesting an extension.

MOTION:

A motion was made by Secretary Smith to remove from the table, and supported by Commissioner Tutt.

ROLL CALL:

The motion carried to remove from the table:

- Commissioner Chowdhury Yes
- Commissioner Robinson..... Yes
- Commissioner Tutt Yes
- Commissioner Ansar..... Yes
- Commissioner Mouri..... Yes
- Commissioner Smith..... Yes
- Commissioner Boniecki..... Yes

MOTION:

A motion was made by Commissioner Robinson to allow extension to December 7, 2023, and supported by Commissioner Tutt.

ROLL CALL:

The motion carried as follows:

- Commissioner Chowdhury Yes
- Commissioner Robinson..... Yes
- Commissioner Tutt Yes

Commissioner Ansar..... Yes
 Commissioner Mouri..... Yes
 Commissioner Smith..... Yes
 Commissioner Boniecki..... Yes

B.

SITE PLAN FOR A NEW FAST-FOOD RESTAURANT WITH A DRIVE THRU; located on the north east corner of Van Dyke Avenue and Rivard Avenue; 20804 Van Dyke; Section 34; Caren Burdi (Fawzi Charara). Approved on September 11, 2017; First extension request approved to September 11, 2020. Second extension request approved to March 11, 2023. Standard (1) one-year third extension would be to March 11, 2024. Petitioner is requesting an 18-month third extension to September 11, 2024.

Ms. Caren Burdi – Good evening, board. The reason why these extensions are happening is one, at the beginning, it was Covid and all that situation. But I did bring in action in the circuit court to vacate the alley and easement in that area. The only way that this building and plan can go forward is if that's vacated. The only way to vacate an alley or easement is once the municipality has vacated their interested in it, is you then either have to get two-thirds the signatures of everyone who owns property within 300 feet. Or you bring a circuit court action and you serve everyone who owns property within 300 feet.

I have accomplished that. I began the court action; I have served everyone. It's been about 140-something people I have had to serve. That was a monumental task and that's what took most of the time. Since then, I've been circulating an order that resolves the case where all the utilities vacate that portion of the alley or easement. Make other arrangements with us of where they want the utilities to be, when that's completed, when that is completed, when that order is entered, we then have to have the plat redrawn.

So this is the work that's still ahead of us. The plats redrawn, after the plat is redrawn and submitted and accepted, then we're free to proceed with the site plan. So the process has been slowed down because of court action. But we are pursuing it.

Vice Chair Boniecki – Thank you. Ron, do you have anything to speak on this? Okay. Do we have a motion to extend the third extension to September 11, 2024?

Megan Price CER-9296
 March 13th, 2023

MOTION:

A motion was made by Secretary Smith to extend a third extension until September 11, 2024, supported by Commissioner Tutt.

ROLL CALL:

The motion carried as follows:

- Commissioner ChowdhuryYes
- Commissioner Robinson..... Yes
- Commissioner Tutt Yes
- Commissioner Ansar..... Yes
- Commissioner Mouri..... Yes
- Commissioner Smith..... Yes
- Commissioner Boniecki..... Yes

C.

SITE PLAN TO EXPAND OPEN STORAGE OF PASSENGER VEHICLES FOR VAN DYKE COLLISION; located on the northwest corner of Nine Mile Road and Lorraine Avenue; 8737 Nine Mile Road; Section 27; Iden Kalabat (Rami Kamil). Approved on August 5, 2019; First extension request approved to January 5, 2023; Second extension requested to January 5, 2024.

Mr. Iden Kalabat – Good evening. Iden Kalabat, Kalabat Engineering services. Business address for the record is 31333 Southfield Road, Suite 250, Beverly Hills, Michigan 48025. On behalf of the property owner Van Dyke Collision, Rami Kamil. We're here seeking extension site plan approval we obtained just before Covid hit and was the cause of the first extension. We have since obtained the necessary variances.

We had our ZBA meeting last week. We got all the variances approved. So at this time we've got the revised – which was one of the Planner review comments from the Planning Department, one of the conditions of the approval, so we've got those revised and approved plans as included in the variances that were approved by the ZBA because we went through a process in order to get them.

We had to reduce the open storage request throughout it to get it to an amount satisfactory to the ZBA for their approval. So, upon the resubmittal of five copies of those this week, and reviewed by your

Megan Price CER-9296
March 13th, 2023

department, we should be able to pull permits, and close this project out.

Construction wise, this project is really -- the site plan approval was to retain an existing condition. So, out of the entire site plan approval process, I think there's a small dumpster enclosure that needs to be constructed. That's the only thing that they'd be pulling permits for. Unless staff has any other things that they think would require building permits.

So, by January of 2024, they should be able to establish a dumpster enclosure on this site and close out those building sites.

Vice Chair Boniecki – Thank you.

MOTION:

A motion was made by Commissioner Robinson to extend a second extension until January 5, 2024, supported by Secretary Smith.

ROLL CALL:

The motion carried as follows:

- Commissioner ChowdhuryYes
- Commissioner Robinson..... Yes
- Commissioner Tutt Yes
- Commissioner Ansar..... Yes
- Commissioner Mouri..... Yes
- Commissioner Smith..... Yes
- Commissioner Boniecki..... Yes

- D) SPECIAL LAND USE FOR EVENT HALL; located on the southwest corner of Groesbeck Highway and Toepfer Road; Section 35; 21665 Groesbeck Highway; Lisarae’s Banquet Hall (9635 French Rd LLC). **Approved on April 11, 2022. Owner requests to rescind special land use approval for event hall.**

MOTION:

A motion was made by Commissioner Tutt to rescind special land use, supported by Secretary Smith.

ROLL CALL:

The motion carried as follows:

- Commissioner ChowdhuryYes

Commissioner Robinson..... Yes
 Commissioner Tutt Yes
 Commissioner Ansar..... Yes
 Commissioner Mouri..... Yes
 Commissioner Smith..... Yes
 Commissioner Boniecki..... Yes

9. BOND RELEASE:
10. NEW BUSINESS:
11. CITIZEN PARTICIPATION:
12. PLANNING COMMISSION BUSINESS:
 A) Planning Director's Report:

Mr. Ron Wuerth – Thank you, madam Vice Chair. I've had a few vacation days off, so this is short. For the most part, we've been really busy, needless to say. We did have our budget hearing with the Mayor. That was on the 7th and it seemed to go well so we're happy about that. There was discussion about our Assistant Planner pay grade issue so I think that'll finally get resolved.

Back on February 28th there was a city council meeting and the Salama rezoning was put forth at that time. And unfortunately it was denied. And so there's a few things to be learned from that particular situation that we'll talk about in the future. I'll have some information on the results on that particular issue and we'll go over it just for informational purposes.

Our staff attended a stormwater issues meeting with Tina Gapshes, the city engineer. And stormwater issues are becoming more evident and more important to be shown and indicated on the site plan. So that's going to expand our application a little bit. Like I said, we'll be asking for more information, proper information, regarding that issue. We'll get additional information from the city engineering department regarding that issue.

So we did have a meeting with the attorney's office, we were talking about DeCarlo's on 10 Mile Road and the rezoning and rezoning with conditions. It's kind of a rather difficult area for what they're proposing, which has to do with storage inside the building and storage outside the building and other additional structures that will be on the entire site. We're working that out, it'll take some time.

On March 9th I attended a TIFA meeting in which the Beckett & Raeder Group presented more information to on the Van Dyke Corridor study and plan. Claudette was there for that one, got to listen to everything that's going on. They are moving forward finally, seems like it's taken a long time. But they have to work with the state of Michigan. That's what Van Dyke is, is an MDOT roadway. So everything between in the right-of-way it has to do with them and has to do with what we want so to speak.

So we have to negotiate back and forth and it's one thing to have to plan, but they're really looking at attempting to implement that plan in about three different tiers and see how that works out. The quicker the better to get what we're after down there, a great entry road in to this city.

Finally, a meeting with a person who has an interest in the continental, I call it, trailer park. That's north off of Eight Mile and east off of Warner. And so we've had some, to say the least, some interesting discussions with that person and I think we'll continue to. He seems to be interested in it and certainly we'll continue our discussions.

So that's basically what we've been doing for the past couple of weeks here. Do you have any questions regarding that or anything else, I'll be glad to try and answer them?

Ms. Robinson – Ron, I have a question. Does Warren have a limit on how many cannabis facilities that we allow in the city? Is there a limit because it seems to me, I don't know how many we have operating right now, haven't taken a count but is there a limit?

Mr. Wuerth – Yes. There are limits on all of it. But remember there are quite a few different types of facilities. So some are where they're doing grows, that's one thing. What this gentleman was talking about were provisioning centers where they actually sell retail.

The other one with the site plan approval with the cannabis facility, that's making product as he said, liquid product, to different types of things that are sold retail, whole sale, that type of thing. So there's, I mean the building division would know where they're all at. I don't have a listing but all the facilities are regulated in different ways and situated in different ways throughout the city.

Ms. Robinson – I guess the question is, so what you're telling me, that they're classifications in the cannabis, but, overall, how many of these facilities are allowable here in the city? That's the question. Do we have a limit?

Mr. Wuerth – I don't have an answer for that. I can get an answer for that.

Ms. Robinson – Okay. Yeah because I see as we're moving forward they're going to be more and more popping up and coming before the commission for approval. With these vacant buildings here and I don't know if we established a limit. I mean, we don't want to be known as the cannabis operation city here in the state of Michigan. That is my concern. We do have a lot of vacant buildings here, and that's my question. I think the city needs to put a limit on how many operational facilities that are allowable here.

Mr. Wuerth – Well, commissioner, if the Planning Commission wants us to take a look in to that and answer your question then we'd be glad to.

Mrs. Robinson – Okay. I would like that.

B) Review and Discussion of Proposed Bylaw Amendment.

Secretary Smith – Attorney Michaels, do you want to discuss that?

Attorney Michaels – Brief summary, this just memorializes what the commission has been – it would be adopting on an ad hoc basis. Which would actually limit public hearings speakers to three minutes.

Obviously if someone wants to exceed three minutes, the Commission could always suspend its rules. Nothing is set in stone. But at least the rule would be in the bylaws and it would apply to every meeting. So there would not have to be a vote as a point of order to establish that three-minute limitation.

What it also does is at this point, even though we're going to revise all bylaws, this includes some other rules that would at least address the order of the meeting so that the speaker addresses the Commission, and the Commission in turn addresses the item with the petitioner or with the staff.

So when the speaker, the member of the public, addresses and item, it is to the Commission. And that's the course, that's the dialogue. And that's to just establish point of order. The Commission in turn, would try of course to address everybody's concern so it wouldn't be suppressing anybody's irrelevancy of what they have to say. It would just establish the order of the meeting.

Secretary Smith – So do we make a motion to approve or receive or review?

Attorney Michaels – At this point, just to receive, and vote on it at that next meeting only because it's been revised since it was first introduced so I would just recommend receiving and filing at this point for receiving it for consideration and adoption at the next meeting. So that it's made a part of the record at this meeting and voted and adopted at the next meeting.

There's been a lapse of time and under the rules for amendment. Once it's introduced, it should be voted on at the next meeting. So let's follow that course.

Secretary Smith – Okay. So we need a motion to receive and file.

MOTION:

A motion was made by Commissioner Tutt to receive and file to be voted on at the next meeting, supported by Secretary Smith.

ROLL CALL:

The motion carried as follows:

- Commissioner ChowdhuryYes
- Commissioner Robinson..... Yes
- Commissioner Tutt Yes
- Commissioner Ansar..... Yes
- Commissioner Mouri..... Yes
- Commissioner Smith..... Yes
- Commissioner Boniecki..... Yes

C) Presentation on Bylaws and the Importance of Ethics, by Jazmine Early, City of Warren Planning Department Planner Aide; to fulfill MSU Extension Citizen Planner Program Capstone Presentation requirement to become a Master Citizen Planner.

Ms. Jazmine Early -- Good evening, madam vice-chair, members of the Planning Commission, Ex-officio members, city attorney, Planning Staff, and audience. Thanks for the opportunity to speak here tonight.

I am Jazmine Early, Planner Aide for the City of Warren. This Presentation on Bylaws and the Importance of Ethics is to fulfill the MSU Extension Program, Citizen Planner Program Capstone Presentation requirement to become a Master Citizen Planner.

Working as a team with the Planning Staff, I have been learning what is involved in the Planning processes and what we all can do to serve the public, in our different roles, in a more professional and effective manner. I love this job and striving to do it well encourages me to encourage you too.

Some of you have more years of experience serving the Planning Environment, thanks for your service. It is a path to follow for those who are new, like me with different background professionally and culturally, who want to learn procedures and bylaws.

As I study these subjects, we see differences and similitudes among some communities in Michigan, including Warren. I hope this presentation will help you to increase your knowledge as it is helping me to perform my job better at the office.

Let's talk about a Planning Commission. Among others, The Purpose of the Warren Planning Commission: "shall be to accomplish a coordinated, adjusted and harmonious development of the City of Warren and its environment which will, in accordance with present and future needs, best promote health, safety, order, convenience, prosperity and general welfare, as well as, efficiency and economy in the process of development. This may include among other things, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds and adequate provision of public utilities and other public requirements."

Also, it shall be to make recommendations to the Mayor and City Council regarding Applications and Planning topics. As we know, Bylaws are conformed by Articles. Due to time constrain, I chose some of the Articles that are part of the bylaws.

We see here in the Authority. We can see that some cities adopted the bylaws around the 1990s.

Each city bylaws authority may differ and we see some are governed by public acts, local acts, the Michigan Planning Enabling Act and the Zoning Enabling Act. The Michigan Planning Enabling Act, Act 33 of 2008, codifies the laws regarding Planning. It provides the regulation and subdivision of land.

MEMBERSHIP

For the most part, cities' Planning Commissions are constituted by 9 members. The city of Warren has 11 members, including the ex-officio members. The 9 members serve for 3-year terms. No limit to number of terms. All have to be qualified voters of the City of Warren and are appointed by the Mayor.

Commissioners are expected to attend all the meetings.

One important thing to take in consideration and for what people can perceive is that the way meetings are handled. The public expect appointed officials, to perform with the knowledge of parliamentary (rules) procedures, the Robert's Rules of Order. For some of you, those terms are new, for others are pretty familiar. Many legal terms can lead to confusion and even for attorneys is complicated to make an opinion, so the best advice is try to understand the terms.

On Motions: Warren bylaws call for Postponing. That motion is in order at any time and is not debatable. A motion to Postpone cannot be amended or reconsidered. The item may be postponed to a certain or an indefinite time. Other cities as Center Line call for Recesses.

Voting: The Commission is comprised of 9 members. To be able to vote we need a quorum of 5 members. You cannot vote when there is a conflict of interest. Please refer to the Warren Code of Ethics. As a motto, remember, you are public appointed officials, people are watching what you are doing and the decisions you are making here and when you choose to present yourself as a Planning Commissioner, you are held to higher standards.

I will talk about conflict of interest later in this presentation.

Now, speaking of time. and you were just mentioning the times. The cities on this example, call for the applicant to speak for at least 10 minutes. Tonight you discussed those changes for the audience, and or at least to have an established time. This has always been an issue in public meetings because the residents would like to express their opinions. One thing is always brought up is how many residents

come to meetings. To maintain order, cities have established time limits.

Let's talk about The Open Meeting Act., public meetings shall be open to the public. Some cities specify on their bylaws that they may be closed sessions when there is an ongoing litigation. Some cities have one public meeting; others have 2, like us. Some have working sessions scheduled in between meetings.

Now, Amendments are presented in a meeting and as our attorney was explaining they are presented and then the next meeting they are voted on, if there is a quorum.

Compensation and Expenses: The City of Warren compensates our Planning Commissioners, and for what I see on the bylaws of other cities and researching around, it is done in a fair manner. In some cities, some boards and commissions are completely volunteering and not being compensated.

I do have a few recommendations. This is just observations, please:

- * Get educated to increase your knowledge as a Commissioner.

It takes effort and time, but it improves the understanding of the Planning process.

- * Hold to higher standards.

- * Read the Applications material. It helps you to do the reviews when you are going to vote.

- * Attend all the meetings: Every time there is not a quorum, it causes decisions to approve or to deny to be delayed, which affects the timeline for Applicants to move forward or make decisions about their projects. It gives the impression to the public that the job from the City's standpoint is not being done efficiently.

- * Learn the Parliamentary Procedure for meetings: Robert's Rules of Order.

A few comments too. If you could

- * Amend the Bylaws to state the day when the meetings are generally scheduled on Monday. Also, if you could

- * Amend the Bylaws to add to Art. 3, a section that states: "Any member nominated for an office on the Commission shall have served on the Commission for at least one year."

Now, I would like to talk about Ethics and its importance.

ARTICLE 8. RULES OF ORDER.

From the City of Warren, Bylaws, last Amended: May 14, 2018. States on Section 8.3 “Each Commissioner shall vote on all motions brought before the Commission at any regular or special meeting at which the Commissioner is in attendance, except that no Commissioner shall vote on a motion in which the Commissioner has a conflict of interest as defined in the Warren Code of Ethics and referenced in Article 10 of these bylaws.”

Members who are “actively engaged in the meetings has a Role: Attend faithfully, know the important documents (Master Plan, Ordinances), Read the packet materials ahead of time, visit sites as appropriate, refrain from deciding before meeting discussion, participate in deliberation, apply the standards (it is ok to disagree).

The Skills: actively listening. Willing to speak up.”

Remember the decisions you make during the voting process should ultimately be for the benefit of the City of Warren community as a whole.

Now, we have here Ethics: Hold Yourself to a higher standard.

Ethics is proper behavior. You need to avoid:

Conflict of interest: which means a situation when one is making a decision in their government office capacity which is also impacting ones:

FINANCES, RELATIVES/FAMILY (EMPLOYEEER/EMPLOYEES, BUSINESS PARTNER), Proximity (as it influences one’s property value) For example, “proximity” at a minimum means adjacent as in next door. If a Planning Commissioner member has a neighbor applying for a special use permit, that member would have a conflict of interest.

Incompatible office. It is when a person holds two public offices, and one is subordinate to the other, or one office is responsible for a contract relationship, or negotiation, with the other. In those instances, the person cannot hold both offices, and must resign from one. Exceptions are the ex-officio members.

We have some principles that we should study for Ethics. For example:

Avoid ex parte contact to ensure impartiality

“Ex parte contact happens when a member of a Planning Commission or Zoning Board of Appeals is contacted by someone outside of the meeting concerning a pending issue, such as approval

or a special use permit, planned unit development, site plan, or appeal. This type of contact should be avoided.

If it happens, explain to that person about ex parte contact, ask them to attend the meeting or hearing or write to the commission or ZBA (Zoning Board of Appeals)."

If the person continues speaking, take detailed note of what was said and share at the meeting in open.

Here we have a chart and let's follow: It is the Ethical Decision-Making Tree:

To perform your role within ethical boundaries, answer these questions to yourself:

Is there a conflict of interest?

If no, go to # 2.

If yes, remove yourself from the situation.

Do you hold incompatible office?

If no, go to 3.

If yes, resign one of the positions.

Are you a member of the Planning Commission and Appeals Board?

If no, go to 4.

If yes, do not vote twice.

Are you a member of the Planning Commission and Legislative body?

If no, go to 5.

If yes:

i: Do local roles allow you to vote twice?

If yes, go to 5.

If no, do not vote twice.

5. Do your job!

IF YOU HAVE A CONFLICT OF INTEREST:

* Declare a conflict

* Do not discuss or deliberate

* Do not lobby, present at the hearing

* Do not vote

* Do not participate on that part of the meeting

* And you could leave the room?

The City of Warren – Planning Commission Bylaws – Amended May 14, 2018

Article 11. Conflict of Interest. Section 11.1 Before casting a vote on a matter on which a member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the planning commission on the public record. The

member is disqualified from voting on the matter after approval from a majority vote of the remaining members of the planning commission. Failure of a member to disclose a potential conflict of interest as required by this section and Public Act 33 of 2008, MCL 125.3801 as amended constitutes malfeasance in office.

IF YOU DO NOT HAVE A CONFLICT OF INTEREST:

Failure to vote when you do not have a conflict of interest is “nonfeasance” – which is grounds for being removed from office.

Abstaining is the same as not voting, i.e. (for example) nonfeasance, if there is no conflict of interest. In other words, I strongly recommend that if there is no conflict of interest, for the item being voted upon, you must vote yes or no.

This information is from the Ethical Principles in Planning: APA (The American Planning Association) Adopted, May 1992.

“The Planning Process must continuously pursue and faithfully serve the public interest.”

- * Recognize the rights of citizens to participate in planning decisions;
- * Strive to give citizens (including those who lack formal organization or influence) full, clear and accurate information on planning issues and the opportunity to have a meaningful role in the development of plans and programs;
- * Strive to protect the integrity of the natural environment and the heritage of the built environment;
- * Pay special attention to the interrelatedness of decisions and the long-range consequences of present actions.

Also from the APA Ethical Principles in Planning:

“Planning process participants continuously strive to achieve high standards of integrity and proficiency so that public respect for the planning process will be maintained.”

- * Exercise fair, honest and independent judgment in their roles as decision makers and advisors
- * Make public disclosure of all "personal interests" they may have regarding any decision to be made in the planning process in which they serve, or are requested to serve, as advisor or decision maker
- * Abstain completely from direct or indirect participation as an advisor or decision maker in any matter in which they have a personal interest
- * Seek no gifts or favors, nor offer any, under circumstances in which it might reasonably be inferred that the gifts or favors were intended or expected to influence a participant's objectivity as an advisor or decision maker in the planning process

* Not use confidential information acquired in the course of their duties to further a personal interest.

“APA members who are practicing planners continuously pursue improvement in their planning competence as well as in the development of peers and aspiring planners. They recognize that enhancement of planning as a profession leads to greater public respect for the planning process and thus serves the public interest.” Which is what the job is for.”

I do have a few other recommendations for you:

“Hold to higher standards”

* Avoid using your appointed position for personal gain.

* Avoid disruptive behavior at meetings.

* Get familiar with the technical Planning and Zoning language.

There are trainings that required a fee, and need approval from the Planning Director, and Administration. There are also free webinars.

* According to the City of Warren Planning Commission: Planning Department, Rules and Procedures, Article 1.11:1 “Each Planning Commissioner and City Council Ex-Officio shall be required to become a “Michigan Citizen Planner”. Article 1.11:1 also states “Planning Commissioners and City Council Ex-Officio’s may continue their training by becoming a Master Citizen Planner.” Both trainings done by the MSUE Program.

* Through the Michigan Association of Planning, the Commissioners have access to training such as:

MAP’s Annual Conference, and some of you have attended it.

Annual Transportation Bonanza

Annual Spring Institute

Specialty Program

Workshops: Planning and Zoning Essentials, Master Plan Process, Site Plan Review, ZBA (Zoning Board of Appeals), Managing Risk, etc.

With this I end my presentation and I wanted to ask you, if you have any correction or recommendation to this document, let me know after the meeting.

I appreciate your patience and the time listening to this presentation. Thank you and thank you the City of Warren for allowing me to do this. Thank you. Have a good evening.

Ms. Robinson – Very well done. Excellent.

Megan Price CER-9296
March 13th, 2023

D) Planning Commission Discussion and Concerns

Ms. Mouri – I guess this is where I'd like to bring to everyone's discussion the fact for -- and I had a chance to speak with the attorney that we should be having alternates. I know this is currently not in the bylaws. So, for me to make a motion right now so this could be added in the bylaws.

Ms. Robinson – Alternates?

Vice Chair Boniecki – Yes.

Ms. Mouri – So do you want to clarify, Mary?

Attorney Michaels -- If I may.

Ms. Mouri – Yes.

Attorney Michaels – I believe that it would require an ordinance amendment. So we'd have to draft the ordinance amendment. And just, if you don't mind, to have to provide some commentary on this. Right now there's no statutory authority for the commission to have alternates.

The ZBA has a statute which allows them to have alternatives. Right now in Warren, by Charter, we have 9 members. And by the State statute, there are up to 9 members per city. So I know other communities have alternates. So I just want to make sure that it's something legally we can do because the decisions of this board have to have integrity. Because sometimes we're appealed to circuit court. So we just have to make sure that a decision of an alternate would stand in court.

But it's a great idea. I commend you for bringing this up because obviously, this is something that could continue. This way, the commission could move forward with its decisions as long as there's a 9 member board.

An ordinance amendment would be the proper procedure.

Ms. Mouri – Okay. So, then I'd like to make a motion for an ordinance amendment for alternates.

MOTION:

A motion was made by Commissioner Mouri for an ordinance amendment for alternates, supported by Secretary Smith.

Attorney Michaels – And we'll prepare it and present it to the Commission at a meeting.

Ms. Mouri – Okay.

A voice vote was taken and the motion carried unanimously.

13. CALENDAR OF PENDING MATTERS:

None

14. ADJOURNMENT:MOTION:

A motion was made by Commissioner Tutt to adjourn, supported by Commissioner Robinson. A voice vote was taken and the motion carried unanimously.

The meeting adjourned at 8:59 p.m.

Merle Boniecki, Vice Chair

Warren Smith, Secretary

Meeting recorded and transcribed by
Megan Price - CER-9296

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