

City of Kalamazoo
PLANNING COMMISSION
Minutes
August 1, 2019
FINAL

Second Floor, City Hall
Commission Chambers
241 W. South Street, Kalamazoo, MI 49007

Members Present: Gregory Milliken, Chair; Emily Greenman Wright, Vice Chair; Alfonso Espinosa; Derek Wissner; Charley Coss; James Pitts

Members Excused: Sakhi Vyas

City Staff: Christina Anderson, City Planner; Clyde Robinson, City Attorney; Pete Eldridge, Assistant City Planner; Beth Cheeseman, Code Administration Clerk/Cashier

A. CALL TO ORDER

Commissioner Milliken called the meeting to order at 7:02 p.m.

B. ROLL CALL

Planner Anderson proceeded with roll call and determined that the aforementioned members were present.

C. ADOPTION OF FORMAL AGENDA

Planner Anderson stated there was an addition to the agenda under H. New Business. Members of the interview committee will discuss the first round of interviews.

Commissioner Greenman Wright, supported by Commissioner Espinosa, moved approval of the August 1, 2019 Planning Commission agenda as amended. With a voice vote, the motion carried unanimously.

D. APPROVAL OF MINUTES

Commissioner Coss, supported by Commissioner Greenman Wright, moved approval of the June 6, 2019 Planning Commission minutes. With a voice vote, the motion carried unanimously.

E. COMMUNICATIONS AND ANNOUNCEMENTS

None

F. PUBLIC HEARINGS

1. P.C. #2019.05. Request for rezoning of 700 S. Howard Street from Zone CN-1 (Commercial – Neighborhood District) to Zone RM-36 (Residential - Multi Dwelling District). [**Recommendation: approval of the rezoning**]

Planner Eldridge came forward to present the staff report. He shared that the definition of CN-1 allows for small scale retail sales and personal service uses in or very near residential neighborhoods; allows for mixed-use developments with commercial on the ground floor and residential on the upper floors. This location currently has an apartment complex with 120 units with no commercial on ground floor. Planner Eldridge stated that the request is to bring the zoning into alignment with its current residential use. He added that the future land use map identifies this parcel as R-3 which is a high-density residential. Planner Eldridge reviewed pictures of property and the area around it, noting the signs alerting the neighborhood of the rezoning. He noted that this zoning change is a “down zoning” to a less intense zoning district – just residential. The rationale for staff recommendation is the following: the rezoning aligns with existing development of the parcel; the rezoning is supported by Future Land Use map, and it eliminates ground floor commercial use requirement for CN-1 zone; the rezoning supports the goal to update the zoning ordinance and zoning map to match the vision of the Master Plan.

Mr. Eldridge stated that the standards for a rezoning have all been met. He said the City reached out to the Arcadia Neighborhood and to the applicant. The applicant reached out to the Arcadia neighborhood association; put up signs and took fliers door to door; set up a tentative conference call with board members of the Arcadia Neighborhood Association. The call was cancelled because no questions came in. The City has received no feedback from the public – positive or negative.

Applicant, Alex Tempalski, managing member of Alpha Capital Partners, Alpha 700 Soho, LLC, has owned the property for a little over 11 months. He said they went through extensive improvements to the property including taking care of code issues, adding security cameras and secure door access, changing management staff, making interior renovations, improving the landscaping/asphalt and some of the exteriors of the property. Mr. Tempalski said they are seeking to have zoning align with the current property usage and future use if it is to be developed. He reported that he received no calls, comments or concerns regarding the rezoning request.

Commissioner Milliken stated that he applauds the efforts to engage neighborhood. He asked why they are requesting the rezoning at this time. Mr. Tempalski replied that the original concern was two units outside of compliance which they cannot rent. To redevelop, he found they would have to put commercial in and they don't want to do that. He said they determined it wasn't properly zoned for its use.

Commissioner Milliken opened public comment portion of the hearing.

No one came forward.

Commissioner Milliken closed the public comment portion of the hearing.

Commissioner Greenman Wright asked why the City wasn't the applicant if this is in line with the Master Plan and if there are other parcels in this zone which need to be redone. Planner Anderson answered the City will rarely be the applicant - only if doing large areas. She confirmed that at

some point they want to put in node zoning there. They are holding off on rezoning there so they can see Arcadia's neighborhood plan.

Commissioner Greenman Wright, supported by Commissioner Wissner, moved to recommend approval to the City Commission for rezoning of 700 S. Howard Street from Zone CN-1 (Commercial – Neighborhood District) to Zone RM-36 (Residential - Multi Dwelling District).

Commissioner Milliken added that the request satisfies the requirements of zoning ordinance and the goals of the Master Plan.

Roll call vote was taken and passed. Commissioner Coss abstained.

2. P.C. #2019.06. Request for text amendments to Chapter 4 and Chapter 12 of the Zoning Ordinance regarding medical marihuana regulations. [**Recommendation: approval of the amendments**]

Attorney Robinson stepped forward to present some amendments to the ordinances pertaining to medical marihuana as a commercial business and as a caregiver. He stated these changes are a result of state regulatory rules which were adopted, and court cases decided by the Michigan Court of Appeals. Attorney Robinson said the State permits outdoor grow operations and that is one of the changes they made to City ordinance. If there is a barrier and plants are below fence height, then medical marihuana can be grown outdoors. He also noted that some of the amendments made are for clarification only. An example of that was regarding the separation between the various businesses. He said they attempted to make the words more clearly reflect intent and application of the separation distances. Attorney Robinson shared that the City has adopted the State rule that prohibits food preparation and consumption at a medical marihuana facility. He noted that you can sell edibles, but not consume them onsite. They wanted to be clear that you cannot have food consumption/preparation at a medical marijuana facility. Attorney Robinson said they also clarified, as a result of case law, that people are not permitted to operate as a medical marihuana business in Kalamazoo unless you have both a valid current state license and valid current City permit.

Attorney Robinson reported a change was made regarding medical marihuana as a home occupation. Due to case law, if caregivers want to operate from a commercial store front, they must allow that – the City can't restrict them to operate out of their home. The language that restricted caregivers as a home occupation has been deleted. There were also some amendments regarding the use of butane. He said when the State adopted medical marijuana law for commercialization, it specified that you cannot use butane extraction in a residential zone. Legislature was amended that to say you can't use any substances that have a flashpoint below 100 degrees Fahrenheit to extract resin in a residential zone because of its inherent danger. In a commercial area it is not a problem.

Commissioner Espinosa thanked Attorney Robinson for clarifying the changes and that they originated with the State.

Commissioner Milliken noted the 1st ordinance, section 4C compared to 3C. In 3C, the words, “is required” is deleted and in 4C it’s not but reads like it should be.

Commissioner Milliken asked for more clarification regarding foods and edibles. He wondered about the sale of food is prohibited, but they can sell edibles. Attorney Robinson clarified that under the statute, marihuana edibles are not considered food. He added that the intent of the amendment is that you don’t have them in the mix with restaurant food. Because they are not considered food, technically, they could consume the edible at the place where it is purchased.

Commissioner Greenman Wright spoke of the difference between microbrews and brewpubs – they are under different regulatory bodies than an establishment that has a liquor license. In the consumption of edibles, is it possible for someone to have a brewpub license and mix these two things. Attorney Robinson clarified that you can’t have consumption or dispensing of alcohol in the same building that you have a medical marihuana facility.

Commissioner Milliken opened public comment portion of the hearing.

No one came forward.

Commissioner Milliken closed public comment portion of the hearing.

Commissioner Espinosa asked if there is a method that can help caregivers to extract resin at their home for patients? He wondered if the City will consider that or will they wait for the State to address that. Attorney Robinson said they will take their cue from the state law.

Commissioner Wissner, supported by Commissioner Espinosa, moved to recommend approval of text amendments to Chapter 4 and Chapter 12 of the Zoning Ordinance regarding medical marihuana regulations with the changes to the safety compliance distance separation.

Commissioner Wissner felt the amendments were straightforward and he had no objections to them.

Commissioner Coss commented that he knows the City is following the lead of the state, but they went so fast in this, he thinks things need to be worked out better.

Commissioner Milliken expressed appreciation for the City’s efforts to stay on top of this and keep as close to compliance as possible.

Roll call vote was taken and passed. Commissioner Coss abstained.

G. UNFINISHED BUSINESS

None

H. NEW BUSINESS

Commissioners Milliken, Greenman Wright and Vyas interviewed applicants for the Planning Commission.

Commissioner Greenman Wright stated there was a wonderful set of four applicants they interviewed. She said all of them could be highly recommended. She said it was one of the most pleasurable set of interviews in which she had participated. She reviewed the applicants:

Coreen Ellis (South Westnedge Neighborhood): staff of YWCA; diverse background in education; Master's in Public Administration; a lot of experience with community engagement and advocacy work; motivated to be involved in local government.

Shardae Chambers (Westwood Neighborhood): came to Kalamazoo as a student; excited about community engagement and being involved in local government; has experience engaging with the Imagine Kalamazoo process; a lot of knowledge of the Master Plan; wants to be involved in shaping the future of land use in the city.

Joe Buck (Arcadia Neighborhood): background as real estate attorney; has had the experience of being an applicant; experience interfacing with the community and city staff in Illinois.

Gary Wark (Stuart Neighborhood): coming from the Building Board of Appeals. He has termed out with that Board and has invaluable knowledge; from the Stuart neighborhood.

Commissioners Greenman Wright and Milliken indicated they would like to recommend Coreen Ellis and Shardae Chambers. Commissioner Milliken stated that these are two impressive women who are engaged, positive, and not issue driven. He believes they would be good additions for the Planning Commission. Commissioner Greenman Wright said they were excited to see these candidates reflect the diversity of Kalamazoo as they are both women and are women of color.

Commissioner Milliken stated the other two candidates are good and if there is no vacancy on Planning Commission, they would also be good additions on other boards or commissions.

Planner Anderson said the next step is to take the four candidates' information to the Mayor with recommendations. The Mayor will then review the information and make a recommendation to City Commission. She said the Mayor could choose to take one forward now, or two forward now, or he could go in another direction. If the Commissioners are in support of committee's recommendations, Planning Staff will take those forward to the Mayor.

Commissioner Espinosa asked if there will there be another round of interviews.

Planner Anderson announced that Commissioner Coss is leaving the Commission, so there will be another vacancy. They will have another round of interviews to fill Commissioner Coss' position. She said they keep the pool of applicants and they are constantly looking for members to volunteer. Sometimes the candidates are asked if they are interested in other boards. Commissioner Coss announced they are always looking for help with the elections.

Commissioner Espinosa, with support from Commissioner Pitts, motioned to forward the interview committees recommendations to the Mayor.

Voice vote was taken, and the motion passed.

Planner Anderson stated again that Commissioner Coss was leaving the Commission. She thanked him for his service and gave him an Imagine Kalamazoo mug to remind him of the time he spent working on Imagine Kalamazoo and other things with City.

Commissioner Coss stated that it's been incredible to serve a City which has the input of citizens and community involvement. It is active and diverse, and it's good. He thanked the other Commissioners serving as well.

I. CITIZENS' COMMENTS (Regarding non-agenda items)

None

J. CITY COMMISSION LIAISON COMMENTS

None

K. CITY PLANNER'S REPORT

Planner Eldridge gave an update on three development projects.

Former Rorrick Auto Body site on W Kalamazoo Avenue – mixed-use development. The site plan was recently approved, and the body shop is coming down in the near future.

Bob Evans on Stadium Drive – will be an Honor Credit Union. The site plan was just submitted.

Chick Fil A on Drake and W Main is a step closer. Information was submitted to MDOT, and they are working closely with our traffic engineer to sort out traffic circulation issues. No site plan approval at this time.

L. MISCELLANEOUS COMMENTS BY PLANNING COMMISSIONERS

Commissioners thanked Commissioner Coss for his service.

M. ADJOURNMENT

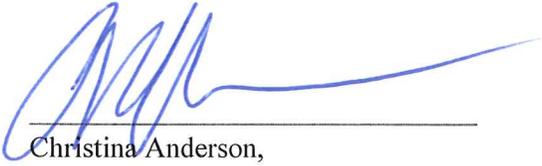
Commissioner Milliken adjourned the meeting at 7:57 pm.

Planning Commission

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Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'CA', with a long horizontal flourish extending to the right. The signature is positioned above a solid horizontal line.

Christina Anderson,

City Planner

Community Planning & Development