

City of Kalamazoo
PLANNING COMMISSION
Minutes
December 7, 2017
FINAL

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

Members Present: Rachel Hughes-Nilsson, Chair; Gregory Milliken; James Pitts; Sakhi Vyas;
Derek Wissner; Alfonso Espinsosa

Members Excused: Emily Greenman Wright; Charley Coss, Vice Chair

City Staff: Christina Anderson, City Planner; Robert Bauckham, Senior Development
Planner; Clyde Robinson, City Attorney; and Beth Cheeseman, Code
Administration Clerk and Cashier

Guests: Jack Urban, City Commission Liaison

A. CALL TO ORDER

Commissioner Hughes-Nilsson called the meeting to order at 7:08 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 that there was one change to the agenda. She requested to move the Capital Improvement Plan up between items F. and G.

Commissioner Wissner, supported by Commissioner Vyas, moved approval of the changed December 7, 2017 Planning Commission agenda. With a voice vote, the motion carried unanimously.

D. APPROVAL OF MINUTES

Commissioner Milliken, supported by Commissioner Espinsosa moved approval of the November 2, 2017 Planning Commission minutes as presented. With a voice vote, the motion carried unanimously.

E. COMMUNICATIONS AND ANNOUNCEMENTS

None

F. PUBLIC HEARINGS

P.C. #2017.16: Request from Marvita Little for a special use permit to allow a group day care use serving seven to twelve children at 1434 Woodward Avenue. **[Recommendation: motion to approve the special use permit, with conditions.]**

Planner Bauckham presented the staff report. The applicant owns and lives in the house on Woodward Avenue north of Paterson in the Northside neighborhood. It is a bi-level single family house with a separate garage and a portion of the backyard is fenced. The applicant operated a family daycare out of this home previously for five years that served up to six children.

Ms. Little is proposing a 24-hour daycare Monday through Friday with children 6 weeks to 12 years. She will have two full-time caregivers in the daycare. The applicant intends to offer the following activities: reading, play, an educational program, cooking, and sports with no activities outside after dark. She has talked to her neighbors and has a letter from Interfaith homes supporting request. No additions or significant changes are proposed to the house or property. A house north of this is a daycare. The applicant is aware and feels there is sufficient demand for both daycares. Planner Bauckham reviewed the maps with zoning and land use designations.

The City is recommending approval for special use permits with the following conditions: 1) The group daycare will not be operated until the State license is obtained and a copy is given to the City; 2) The daycare children must be supervised at all times; 3) The operation of the daycare must meet the noise ordinance of the City of Kalamazoo; and 4) The fencing in the backyard must be completed.

The applicant, Marvita Little, stated that she recently purchased the lot next door for play. She said she has two staff who are partnering with her. One of the staff, Tiffany Worthy, currently works for KRESA and has worked 17 years for Head-start. Ms. Worthy will be a prn staff if one of the other two caregivers are not available. They will be working with a curriculum with the kids. Ms. Little stated that she wants to provide affordable and quality care for the people in her community.

Commissioner Milliken asked if Ms. Little currently had the family daycare or was just seeking to open the group daycare. The applicant stated that she currently works for the State of Michigan and has for the last 10 years. He also asked if Ms. Little was prepared to fix/complete the fence. Ms. Little stated that was no problem and asked for clarification of what part needed to be completed.

Commissioner Espinosa asked if the applicant was required to fence the lot next door to use as a play area. Planner Bauckham clarified that it would need to be fenced if used as a play area. Ms. Little responded that if she has to fence it, it will not be used as a play area.

Citizen, Rhonda Allen, partnering with Ms. Little, spoke in support of the applicant. Ms. Allen stated that Ms. Little has a passion for children and there is need in the community for this daycare. She stated that Ms. Little has a list of people who want to sign their children up for her daycare.

Commissioner Wissner, supported by Commissioner Pitts, moved to close the public comment portion of the hearing. A voice vote was taken and the motion passed.

Commissioner Espinosa asked for more details about how the 24-hour daycare will work. Ms. Little stated that they will provide care 1st, 2nd, and 3rd shift Monday through Friday. She said the workers have

all worked third shift before and it would be their job. They have enough room, cots and cribs available for overnight care.

Commissioner Wissner, supported by Commissioner Pitts, moved that the special use permit with conditions be approved.

Commissioner Wissner and Commissioner Pitts voiced support of the applicant saying that Ms. Little appears qualified to meet the demands of the challenge and that 24 hour daycares are needed in the community.

Commissioner Espinosa asked for clarification about what happens if State doesn't allow 12 kids, but the Planning Commission approves the special use permit. Planner Anderson stated that the State will determine how many kids can be cared for in the house.

Planner Anderson conducted a roll call vote. The motion was approved.

P.C. #2017.17: Request from the Kalamazoo Downtown Development Authority to vacate a 206-foot-long segment of the public alley located between Cooley Street and N. Park Street. **[Recommendation: motion to recommend to the City Commission to approve the alley vacation request.]**

Planner Bauckham gave the staff report. He reported that it is a clean-up request of a situation. The alley is downtown between Cooley Street and N. Park Street, south of Eleanor. Planner Bauckham covered the history of the alley and stated that when the alley was removed and taken out of service, it was never formally vacated. The Kalamazoo Downtown Development Authority requests finish the formal process of vacating the alley. The properties on either side are owned by the Downtown Development Authority and Downtown Tomorrow Inc. These organizations can receive the entire alley property if vacated. The adjacent property is being planned for future development. Planner Bauckham stated that this request does meet the goals of the economic vitality section of our new Master Plan regarding the development of downtown. He stated that the City's Public Safety and Public Services departments have no objections to this request. Planner Bauckham explained that typically a vacated property's ownership is split down the middle, however, in this case, the same entity owns both sides. Fair market value has been estimated to be \$2,000 – discounted because of the creek under it. Planner Bauckham reviewed zoning and land use maps.

City staff recommend that the Planning Commission recommend to the City Commission to vacate the alley.

Commissioner Milliken asked for clarification about the property lines. He stated that there is a unified streetscape theme on both sides. He thought it may get messy if the north side and south side decide to do different things independently over time. Planner Bauckham stated that it will go to the entities and then be turned over to those developing the property in the coming years. He believed it will come up to the edge of the creek and it would include the amenities. Planner Bauckham stated that they would ask that the amenities would be preserved since they were done with City funding.

Commissioner Wissner asked for clarification ownership of the entities. Planner Bauckham stated that both entities have the same owner at this time.

The applicant's representative, Mr. Michael Connor, spoke on behalf of the applicant. Mr. Connor gave a brief history of the alley. He also handed out a map to Commissioners. On the map, there were four blocks highlighted – block 1, 2, 9, and 10. Mr. Connor stated that they had a large municipal transaction this summer whereby those blocks transferred ownership. The focus of the request, blocks 1 and 2 were sold to Mr. Jeff Nicholson. Mr. Nicholson also bought block 9 and Western bought block 10. Mr. Connor clarified that the Downtown Development Authority (DDA) has retained ownership of the creek due to an ordinance adopted by the City in the 1990's making the DDA responsible for the repair, maintainance, and the upkeep of the creek. The DDA has imposed upon the developers the obligation to maintain the sidewalk and other amenities. Mr. Connor stated that it is an undertaking they have all gladly accepted.

The DDA owns the channel. They support vacating the creek channel to the DDA. If it was divided, the present landowners, the Nicholson LLCs, would give a quit claim deed back to the DDA for the creek channel. The City recommends vacating it to the DDA and they support that.

Commissioner Hughes-Nillson opened the public comment portion of the hearing. No citizens stepped forward to speak.

Commissioner Espinsosa, supported by Commissioner Vyas, moved to close the public comment portion of the hearing. A voice vote was taken and approved.

Commissioner Wissner stated that he is a DDA member and asked if he should abstain. Attorney Robinson advised Commissioner Wissner to abstain from the discussion and vote.

Commissioner Milliken, supported by Commissioner Espinsosa, moved to recommend to the City Commission the approval of the vacation of this segment of the public alley located between Park Street and Cooley Street as further identified in the staff report.

Commissioner Milliken expressed that his questions had been addressed and he is satisfied that it meets the requirements of the Street Vacation policy. He stated full support of the request.

Planner Anderson conducted a roll call vote: Commissioner Wissner abstained, the motion was approved.

NEW BUSINESS: CAPITAL IMPROVEMENT PLAN

P.C. #2017.18: Presentation of the Capital Improvement Plan for 2018. **[Recommendation: motion to recommend to the City Commission to approve the Plan.]**

Deputy City Manager, Mr. Jeff Chamberlain, presented the Capital Improvement Program (CIP) for 2018-2022. There is a State Act that requires them to bring the CIP to the Planning Commission. The Capital Improvement Plan is a part of the overall City-wide Budget. The entire City budget is on the webpage, at the library and downstairs at the City Clerk's office and at the City Manager's office. He focused mainly on 2018 highlighting important projects. He mentioned that they are working with \$27 million capital program for next year. They are working with the IT Division on a 311 Call Center to set up a single point of contact in an effort to provide better customer service. Other projects are the renovation of Crane Park and Henderson top lot; construction designs and fund raising for changes to Bronson Park; design and planning work for Public Safety's Station 2. There are many Public Services

projects – running fiber optic network for traffic lights, snow melt repairs for downtown, purchase of trucks and dump trucks and planning for the downtown KRVT (Kalamazoo River Valley Trail) and the Portage Creek segment. There are also many street, water and wastewater projects listed in the CIP. Mr. Chamberlain also highlighted the project that was started in 2017 to remove lead lines in homes. In 2017 they moved the budget from \$150,000 per year to \$2 million per year (\$1.5 million from CIP and \$500,000 from Foundation for Excellence) for this project. Mr. Chamberlain also said they are working with the Public Services department on what they can do for flood control in the Portage Creek area.

Mr. Chamberlain asked for the Planning Commission to recommend the CIP to the City Commission. He also said they will have a public meeting on the entire City budget 4:15pm – 8:30pm on Monday afternoon. On December 18, 2017 they will have the official public hearing on the City budget. The City Commission needs to adopt in in January- most likely January 16 meeting.

Commissioner Milliken asked how Imagine Kalamazoo influenced the CIP budget. Mr. Chamberlain stated that it helped them know what additional projects need to happen around the streets when the street repairs are in process. He estimated that the real impact will be seen in 2019 or 2020 when they are lining up new projects they will look to see what is wanted as well as needed.

Commissioner Wissner asked about the percentage of homes in Kalamazoo with lead lines and how long it would be until Kalamazoo is lead free. Mr. Chamberlain estimated that Kalamazoo will be lead free in about 15 years. He indicated that it is difficult to give a percentage of homes with lead lines. He said they are scattered around the City and in many older neighborhoods. The companies that installed the lines used cards to document their work and didn't always write down what pipes were made out of. The City can gauge where they may be from the time period of construction and the company installing the lines.

Commissioner Hughes-Nilson opened the floor for public comments, but no one came forward.

Commissioner Vyas, supported by Commissioner Milliken, moved to recommend to the City Commission to approve the plan.

Commissioner Vyas stated that the plan was very well laid out with thoughtful highlights and she was in support.

A roll call vote was taken and the motion was approved.

G. UNFINISHED BUSINESS

P.C. #2017.15: Request from the Community Planning and Development Department to rezone multiple parcels located between W. Lovell Street and Stockbridge Avenue, and between S. Westnedge Avenue and the Portage Creek from Zones CC, CN-1, and M-1 to Zones CCB, CN-1, CN-2, and RM-36.

(Continued from the November 2 meeting.) **[Recommendation: motion to recommend to the City Commission to approve the rezoning request.]**

Planner Anderson gave a presentation regarding the rezoning request. She touched on timeline, public input and engagement, intent, and how the rezoning fits in with the 2025 Master Plan and is in line with

the City's Strategic Vision. Planner Anderson also explained the differences of the four different zoning districts and how that compared with the current zoning.

Planner Anderson gave answers to some of the questions that came up at the public hearing the previous month. She spoke about the impact of the zoning on current uses, how the zoning would affect property values, and the change in height requirements. She also emphasized the 'why' of the rezoning: the large scale commercial district is not the right zoning district for the corridor which leads into our walkable urban downtown. They were looking for a district which would allow commercial development at a scale which fits the context of the area but also the scale which supports the downtown.

Commissioner Vyas, supported by Commissioner Pitts, moved to re-open the public hearing on the rezoning request to take additional comments before the Commission takes action on the matter. A voice vote was taken and passed unanimously.

Commissioner Hughes-Nillson opened the public comment portion of the hearing.

Citizen, Mr. Richard Stewart, stated that he came to Kalamazoo for college, built a business and stayed here. Mr. Stewart said he lives here, invests here, and is employed here. The top reason he picked his location because of the zoning of CC. He said it is the most desirable zoning for an owner-occupied business. He said it is the zoning that is most flexible and highest value and that zoning plays a big part in evaluation. Mr. Stewart said he has enjoyed good neighbors. He stated he had almost finished rehabbing his building as his retirement plan when the project was stopped. He said he can't finish the outside of the building. The DDRD expansion has made his building functionally obsolete. He has 4.5 thousand square feet of functionally obsolete old building. He stated that the City has turned him down seven times to fix his fence. Mr. Stewart said he does have the opportunity to sell. He stated that an organization is buying up the neighborhood, tearing down affordable housing, and he is in the way. Based on the current CC zoning it is one value, when that is changed it lowers the value. He stated that staff information says appraisals are based on income. Mr. Stewart stated that as a Real Estate Professional, there are three types of approaches for appraisals. He said when you are owner-occupied, you can't use the income approach. He said there is the income approach, cost approach and comp approach. He said they are the most developed area because of their zoning, and the City wants to take this away. Mr. Stewart said that they attended the meetings and spoke up at the meetings. He felt ignored because his emails were not included in the packet. He believed that the one lady who brought up height requirements will receive preferential treatment.

Mr. Leonard Stafford stated that he recently had a guy who was going to buy his property to build on it until he found out about this meeting. He said the person decided not to buy at that time. Mr. Stafford stated that he is not a car dealership and he is not sure why he is listed as that. Now people don't want to buy the property because you can't build on it – it is just a waste. It's not right at all.

Mr. John Davis came forward to talk about his car lot. He is wondering why they can have so many liquor establishments. The neighbors never complained about the car lots. He doesn't understand why there is so much concern about selling cars in that area when there is more harm done by liquor establishments and drunk driving. He said the Planning Commission would approve putting up a brewing place, but would not approve a car lot. He was upset that people would not be able to sell cars at his

property if he decides to sell someday. He encouraged the Commission to leave car lots alone, they don't harm anyone. He only sees they are doing good in the community.

Ms. Tina McClinton of Lake Street has been flooded twice. This last flooding was the worst. She noted that the City said they wanted to do something to the creeks, but she said that won't help Upjohn Park. Ms. McClinton said that Upjohn Park doesn't flow anymore and that is what floods them. She also expressed concern about the rezoning and the possibility of new buildings taking away green space and pushing the water toward her property. She talked about KVCC being built so high that it contributes the the flooding. She stated that if you take the woods away and build anything on their block, her whole yard would flood. Ms. McClinton said that the woods has two ponds now and they are there instead of in her yard. She stated that can't afford to keep fixing things when it floods. Ms. McClinton loves Kalamazoo and has lived here all her life. She stated that she attended all of the meetings.

Commissioner Espinsosa, Supported by Commissioner Wissner, moved to close the public comment portion of the hearing. A voice vote was taken and was unanimously approved.

Planner Anderson addressed some of the concerns noted by citizens. As far as height, there was a letter in packet from a citizen supportive of the process, but she did state concern about the height limitation. Planner Anderson stated that is something staff would consider studying in the future, but changing the height for CN-2 for the whole length of the corridor was not appropriate. She clarified that CN-2 does not allow breweries and liquor establishments. If the area is rezoned, no new package liquor stores will be permitted in the area. Planner Anderson stated that the property on Lake street is currently zoned as Community Commercial and, in theory, it could be developed now. As far as flooding, Mr. Chamberlain said the City is looking into ways to address that issue. In terms of the appraisal comment, the City Assessor provided general information on how properties are assessed. The full packet was posted online and was available prior to today.

Planner Bauckham mentioned that Mr. Stewart's current business is a conforming use in proposed zone. He clarified that the auto sales and repair businesses can continue as they are indefinitely. The owners can make improvements to their building and properties. They can sell their businesses to someone for similar operations as long as the business is not abandoned for over a year.

Commissioner Espinsosa asked Planner Anderson to clarify zoning differences for green space areas. Planner Anderson stated that with CC zoning, you can cover up to 80% of the lot. CN-2 zoning is a little less – you can cover up to 75% of the lot.

Commissioner Pitts asked about the gentlemen who came forward about the car lot. He asked for clarification about selling properties to be used for the same use. Planner Anderson stated that a property that is a legal non-conforming use can be sold for the same use, as long as it is not vacant for a year. Commissioner Pitts asked about Mr. Stafford's concern that his property was classified as a car lot. Planner Anderson stated that the zoning is Community Commercial which does allow auto sales. The City didn't designate one lot or another as auto sales, they just know a few exist along the corridor. Commissioner Pitts asked if selling or fixing cars was available to someone buying or building in this area. Planner Anderson responded that if the business exists now, then the use could continue. If the new zoning goes through, then a new business of that use would not be able to open. However, it is possible

to apply for a variance through the Zoning Board of Appeals. She also went through some of the permitted uses in CN-2 zoning.

Commissioner Pitts asked about rebuilding if a legal non-conforming business had a fire and was destroyed by more than 50%. Planner Anderson said no, they would have to ask for permission – there would not be a guarantee of being able to rebuild.

Commissioner Vyas clarified that no one needs to change anything they are doing right now if the re-zoning is approved. Planner Anderson agreed that no changes were required at this time.

Commissioner Vyas, supported by Commissioner Wissner, moved to recommend to the City Commission to approve this re-zoning request.

Commissioner Wissner expressed that the re-zoning request seems to be in line with 2025 Master Plan. He stated that they received a lot of community input regarding the plan. He believed the concerns were answered. Commissioner Wissner stated that if he owned in this area, he would want this – noting that limitations are protections as well. He can empathize with the fear that is there, but anyone currently there can stay there. Commissioner Wissner noted that the car dealer will be the only one on that side of town which could be good for the car business. He expressed support of the re-zoning.

Commissioner Pitts expressed concern that so many residents are not understanding or trusting what is going on.

Commissioner Espinosa seconded Commissioner Wissner and Commissioner Pitts comments. He stated general support of the re-zoning. He believes it makes sense with the goals of the Strategic Vision. He believes it may help the individuals in the area and give more options to people for business. He can see it may be an advantage to some businesses.

A roll call vote was taken. Commissioner Milliken abstained and Commissioner Pitts voted no. The motion was approved.

H. NEW BUSINESS

Recommendation from the Nominating Committee.

Planner Bauckham stated that the Nominating Committee interviewed six candidates in October. There is only one vacancy on the Planning Commission board because three existing Commissioners have agreed to new terms. Planner Bauckham said that the Nominating Committee has a recommendation of two candidates. If they are accepted tonight, then the applications will be sent to the Mayor and he will select the candidate.

Commissioner Milliken introduced the applications for the candidates: Mr. Adam McFarland, non-profit entrepreneur from Parkview Hills, and Mr. Jack Bartman, finance and real estate, living in the Parker Duke neighborhood. He stated that these two candidates were both good applicants and would be good

additions to the board. Of the two candidates, they felt that Mr. McFarland rose a bit higher and would have a good perspective for the Commission.

A voice vote was taken and passed. The applications were accepted and will be forwarded to the Mayor.

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

None

J. CITY COMMISSION LIAISON COMMENTS

Commissioner Urban noticed confusion amongst citizens speaking and amongst the Commissioners about the implications of zoning changes and existing uses. He suggested using some concise explanations of what the implications of the zoning changes mean to existing owners and uses – that use stays with property and not with the owner. He told the Commissioners to give really concise definitions of the terms that are used along with examples, and it may make their work easier. Commissioner Urban stated that he was glad they approved the rezoning as it is in compliance with Imagine Kalamazoo and the new Master Plan. He also stated that he knew the Planning Commissioners will be tested a great deal as they try to implement the Master Plan.

K. CITY PLANNER'S REPORT

Planner Bauckham thanked the City Commissioner for his comments. He stated that as the meetings and situation has progressed, the number of dissenters have decreased. He thinks it comes down to a matter of trusting what they are telling them.

Planner Bauckham shared that the Redevelopment Ready Community Certification was awarded on Monday at the City Commission meeting. Kalamazoo is the 15th community in the state to receive this. He is hopeful for open doors for economic development and awareness of Kalamazoo's development and desirability for development. There is a plaque in the City Manager's office.

Planner Bauckham reviewed the site plan list. 52 projects have come in this year. The latest project is the Bates alley improvement work. Three projects in various stages of processing. Planner Bauckham is hoping for 55-60 projects by year's end. Some of the projects include: a plan for a new multi-tenant building behind Gallagher's restaurant on Stadium Drive; renovations to the former Mexican Grocery store on Portage Street; renovations to the old Hardings site on Crosstown - this spring or summer there should be tenant activity there; Walden Woods phase 4; and the Exchange building continues on schedule.

Planner Bauckham stated that they are working on a special use permit for the YWCA and the vacation of a part of Cave's Court for the January meeting.

L. MISCELLANEOUS COMMENTS BY PLANNING COMMISSIONERS

Commissioner Wissner expressed agreement with Commissioner Urban. He believes there will be hard work and hard decisions ahead. He agreed there will be opposition and the Commissioners need to be ready for that. Commissioner Wissner said they need to listen, be thoughtful and be able to think clearly when there is pushback.

Commissioner Milliken stated that they will be responsible to be prepared when they come into the meetings. They will need to reach out to staff with questions before the meetings. He said that the things coming before them will be complicated issues.

Commissioner Vyas thanked City staff for the working being done reaching out to the community.

M. ADJOURNMENT

Commissioner Espinosa, supported by Commissioner Vyas, moved to adjourn the meeting. A voice vote was taken and passed unanimously. Meeting was adjourned at 9:06 pm.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "C. Anderson", is written over a horizontal blue line.

Christina Anderson,
City Planner
Community Planning & Development