

PLANNING COMMISSION MINUTES
Regular Meeting
October 3, 2017

CALL TO ORDER: The October 3, 2017, Planning Commission meeting was called to order by Vice Chairman Rosier at 7:00 p.m.

PRESENT: Vice Chairman Rosier, Commissioners Bly, Snyder, Harag, Hoy, Clarke, Brummette, Leaser and Council member Bahmer.

ABSENT: None.

ALSO PRESENT: City Clerk Terpstra, Community Development Director Myrkle and City Manager Guetschow.

APPROVAL OF MINUTES:

Motion by Commissioner Snyder, second by Bly to approve the regular minutes of September 5, 2017 and the Special meeting minutes of September 21, 2017 as presented. Carried. 8 Yes. 0 No.

APPROVAL OF AGENDA:

Motion by Commissioner Brummette, second by Harag to approve the agenda with the deletion of Item 6 i) Discussion on RV parking. Carried. 8 Yes. 0 No.

EARLY PUBLIC COMMENT: Chris Laverty, 403 S. Cochran thanked the Planning Commission for all of the support to their historic neighborhood. He is concerned that this project will create noise, dust, smoke, order glare flashes(from ordering speaker), radio noise and exhaust fumes. He would like to see the highest fence possible as high as 8'. He is fine with vinyl fencing as long as it is at an appropriate height. He wants the wires put underground.

Concerned with light pollution. Would like a traffic study done and perk test for the retention pond.

Floyd Burley, 421 S. Cochran, concerned about the traffic parked in the road in front of his driveway waiting to get into the property. The garage is on the property line according to the surveys. He does not want fryers because he doesn't want to smell hamburgers.

Jody Whitehead, 420 Horatio, stated she has lived in this historical home for fourteen years. She stated she has listed her house and that the showings have stopped in the past couple of weeks since the zoning for the Dairy Queen has been changed to B-1. She has also been told by her realtor that the value of her home has dropped \$10,000. She feels the pool of potential buyers has greatly diminished because of the zoning change. She works out of her home and is concerned about construction noise. She would like to see the trees kept and prefers a fence.

Mike Ranville, 722 Treetop Trail, former owner of 403 S. Cochran, coexisting with owners of Dairy Queen for thirty five years. He had lots of paper in his yard that the workers picked up. Does not feel that new owners have been a good neighbor. The walks haven't been shoveled in the winter months. He stated that he was on the Planning Commission when CVS came to town and a compromise was made. He hopes that they take into consideration the concerns of the neighborhood.

Lee Howser, 210 E. Henry, read articles from ten years ago relating to the airport issue and stated that he is amazed at how history repeats itself. The neighbors have communicated both verbally and in print on this issue.

- 1) He urged the commission to fully explore all three options available to them in the sections in which they have discretion.

- 2) As directed more or less where you have discretion he urged to ask questions on every item posed in the document.
- 3) Suggests that in consideration of the site plan options to ask yourself -what would be my decision if this business were located within one foot, 10 feet or 50 feet of their house.

Carol Monroe, 414 Horatio, has lived directly behind Dairy Queen for thirty eight years. She knows the Roberts family. She is concerned about the disregard for the local environment. Her husband was on the board for forty years and worked hard on the Master Plan for the City.

NEW BUSINESS:

A. PUBLIC HEARING – SITE PLAN HGB –PLANNED DEVELOPMENT DISTRICT:

Public Hearing Opened: 7:30 P.M.

City Manager Guetschow explained that the commission had already looked at the preliminary site plan and would now be dealing with the final site plan. The commission will then also need to deal with the issue of rezoning the property from Office Service 1 (OS-1) to Planned Development District (PDD). This is for an addition to the south side near Harris Street.

Public Hearing Closed: 7:35 P.M.

B. ACTION- SITE PLAN HGB- PLANNED DEVELOPMENT DISTRICT.:

Discussion was held on the planned start of construction being April 1, 2018. The addition will be to house outpatient surgery and endoscopy.

Discussion was held regarding how the site plan approval works with the Planned Development District.

Commissioner Harag moved, supported by Hoy to recommend approval of the site plan for Hayes Green Beach Hospital as presented. Carried. 6 Yes. (Bly, Hoy, Brummette, Rosier, Snyder, Harag) No. 2 Abstain (Clarke, Leeser)

C. PUBLIC HEARING – REZONE AMENDMENT- HGB OS-1 TO PDD:

Public Hearing Opened: 7:45 P.M.

No comment.

Public Hearing Closed: 7:48 P.M.

D. ACTION – REZONE AMENDMENT –HGB OFFICE SERVICE-1 (OS-1) TO PLANNED DEVELOPMENT DISTRICT (PDD):

Commissioner Brummette stated they should take into consideration any parking changes this would involve.

City Manager Guetschow explained the Planned Development District and how it fits with zoning of the property.

Commissioner Bly moved, supported by Harag to recommend approval of the rezone amendment for Hayes Green Beach from OS-1 to PDD as presented. Carried. 6 (Snyder, Rosier, Harag, Hoy, Bly, Brummette) 6 Yes. 0 No. 2 Abstain (Leeser, Clarke)

E. PUBLIC HEARING – CONDITIONAL USE – 407/415 S. COCHRAN – DAIRY QUEEN:

Public Hearing Opened: 7:57 P.M.

Brett Roberts, Sherman Road, owner of Dairy Queen, stated that he was there to answer any questions regarding the Conditional use for the site.

Chris Laverty, 403 S. Cochran, stated that his home is close to this

property. He is concerned with the noise, dust, speaker order glare, fumes, vibrations, radios, exhaust and speakers. He expects the highest possible fence and would like to see an 8' fence. He stated the storage garage is 3' from his backyard. He is concerned with the high voltage lines and telephone pole. He would like the lines buried. He is concerned with the light pollution and doesn't like the drive thru. He won't be able to open his windows. He wants a traffic study and perk test done to make sure water drains quickly.

Ben Phlegar, 425 Horatio, expressed concerns over the reason for the change being that the Dairy Queen equipment won't fit. What if they need a bigger business later? He is concerned about the surrounding properties. Would like the least amount of light pollution possible.

Floyd Burley, 421 S. Cochran, stated that he would like the construction to have a start time of 8 A.M. and end at 5:00 P.M.

Jody Whitehead, 420 Horatio, walks on her breaks and is concerned about the extra traffic. She feels a traffic study needs to be done.

Dan Vanderstelt, 225 VanLieu, feels that this can all be resolved regarding the lights and drainage system.

Kathy Parkinson, 332 S. Sheldon, invited the Robert's to her house to watch tapes from the airport project so that they understand that these residents are saying the same things that the Robert's said about the airport project. She stated that they were not notified soon enough. She feels this project was taken to the City and bulldozed through.

Public Hearing Closed: 8:13 P.M.

F. ACTION – CONDITIONAL USE – 407/415 S. COCHRAN – DAIRY QUEEN:

Commissioner Brummette moved, supported by Bly to discuss the Conditional Use for 407/415 S. Cochran – Dairy Queen.

Commissioner Hoy agrees that there needs to be an 8' fence. He doesn't know about the power lines. He believes there needs to be a right turn only on exit, need to keep the hours as they go forward, a perk test would not take long to make sure that it would drain properly. He would like to see a 15' buffer, maybe green area on both sides.

Commissioner Brummette stated that the frontage can not be changed. If there is a desire for drive-thru they may need to discuss parking because there may be a back up in the line. There will need to be shielded lighting so that it doesn't bother the neighbors. They will need to know the perkability for drainage. Would like to see the number of accidents on M-50 to know what they are up against for traffic. Would like to discuss materials for the parking lot such as permeable pavement. He is concerned about more accidents with a drive-thru service.

Brett Roberts stated that they had a letter from MDOT stating that this project will not require a traffic study, however he is working with MDOT regarding the egress from the property. He stated that green space along the sides of the property would be difficult with a fence and that the fencing would comply for a barrier. As far as the drainage, they have a pest company that comes in once a month that can treat for insects. He stated that regarding the parking, the lot is quite large and the permeable paving doesn't work as well with the freeze thaw seasons we have in Michigan.

Commissioner Harag stated that since the building will be in the middle of a neighborhood he would like the architecture residentialized to soften the view and would like to see some green space.

Brett Roberts stated that it would have a red roof with blue around the top with a gray and dark navy blue.

Commissioner Leaser would like to consider not having a drive-thru.

Commissioner Snyder stated she is concerned with pesticides being sprayed because of the neighbors gardens. She stated she had witnessed traffic problems near the driveway and feels it is a very bad location for a drive-thru. She would like to see an 8' fence as well as exterior brick rather than stucco. She would like Mr. Roberts to work with the homeowners.

Brett Roberts stated that he has offered to work with the homeowners and they are not willing and that is out of his control.

Commissioner Bly stated that you can not satisfy everyone. He stated the lights need to be cut down, make sure that the drainage works properly and have a right hand turn.

Commissioner Clarke spoke to the hundred year flood amount being 6.2" of rain in 24 hours.

Chairman Rosier would like to see an 8' decorative stone to match the Laverty's house and also on the other side to improve that. He would like to see a gate across the back lot for when it is closed. He stated that CVS changed their architectural façade. He would like to see no music on the outside, no speakers for ordering and is concerned about the protecting the neighbors from disease from mosquitos from the retention pond. If Cochran is changed to two lane traffic he believes a traffic study needs to be done. He would like to see the neighbors compensated for the clean-up of their yards.

Chris Laverty, 403 S. Cochran, agreed with Commissioner Bly, he would like to see it just the way it is, would like it to blend in with the

neighborhood and is very concerned about the retention pond. He stated that permeable parking lots are used all the time at MSU with no issues. He would like a traffic study.

Kathy Parkinson, 332 S. Sheldon, stated that she has set on Sandy's porch and witnessed an accident and kids crossing the street that were almost hit.

Commissioner Bly stated that there is a holding pond by Meijers that has no issues.

Chris Laverty, 403 S. Cochran, stated that there is no residential area there. He questioned what the appeal process is.

City Manager Guetschow stated that as they consider conditions in the resolution that were prepared according to the ordinance he would caution about prohibiting a drive-thru because it is allowed under the B-1 zoning for restaurants. The ordinance states that if they meet all of the other conditions they are allowed to have a drive-thru. He also cautioned imposing architectural standards for the building. There are no architectural standards within the zoning ordinance. Commissioner Snyder mentioned CVS, however they voluntarily made modifications. There is no authority in the ordinance to impose that.

Community Development Director Myrkle stated that they need to go through the resolution and other concerns they have one item at a time.

Commissioner Brummette stated the conditions set forth in the zoning book such as drive thru option, 6' foot fence and green belt with a minimum width of 10'. He stated he was curious as to whether they would consider to not have a drive-thru. He stated that since they said they would not consider that it puts them in a legal bind if the

commission says that they will not allow a drive-thru. He questioned if they would consider a 10' greenbelt in order to shrink the building for more room for the drive-thru? He stated that common ground needs to be found to vote. Needs to know what the commission can do without legal ramifications if it can be avoided.

Community Development Director Myrkle said that the commission can increase, decrease or modify with the landscaping requirements.

Commissioner Brummette for the record suggests that maybe they need to help make it fit. He stated that the Dairy Queen can be good neighbors and help make some things that have to be done work.

Chairman Rosier read proposed resolution:

RESOLUTION NO. 2017-PC08

A RESOLUTION TO APPROVE A CONDITIONAL USE FOR DAIRY QUEEN, 407 & 415 S. COCHRAN AVENUE IN THE CITY OF CHARLOTTE

WHEREAS, the owners of 407 & 415 South Cochran Avenue have submitted a request for a Conditional Use Permit for an expansion of the Dairy Queen at that location; and

WHEREAS, the City of Charlotte Planning Commission is required to make an affirmative finding that the following conditions have been met this proposal:

- Access shall be provided so as not to conflict with the adjacent business uses or adversely affect traffic flow on a major thoroughfare.

- Access to the site shall not be by way of a residential street.
- Trash receptacles shall be screened from public view and shall be covered to prevent debris from being a nuisance to abutting properties.
- Outdoor lighting of buildings or parking areas shall be shielded from abutting residential areas.
- All loading and unloading and parking shall be provided off-street.
- A 6-foot high completed obscuring wall shall be provided in abutting adjacent districts are zoned for R, RT, RM, MH, or OS-1 Districts.

And;

WHEREAS, the City of Charlotte Planning Commission has reviewed the proposed development and determined that these required conditions are met.

THEREFORE, BE IT RESOLVED that the City of Charlotte Planning Commission hereby grants a permit for Conditional Use for 407 & 415 S. Cochran for purposes of a restaurant expansion.

Commissioner Bly moved, supported by Brummette to accept Resolution No. PC2017-08 as presented.

Discussion was held on type of fence, construction and tree line.

City Manager Guetschow stated that the details of the fence can be dealt with under site plan review.

Commissioner Brummette moved, supported by Hoy to amend the motion to accept Resolution No. PC2017-08 and change the height of the fence to 8'. Carried. 8 Yes. 0 No.

Community Development Director Myrkle stated that he would like the commission to review each item in the resolution to make sure that they are comfortable with each item contained within in the resolution.

Commissioner Hoy moved, supported by Harag to require that a perk test be performed. Carried. 6 Yes (Harag, Hoy, Leeser, Rosier, Clarke, Snyder) 2 No. (Bly, Brummette)

Discussion on traffic study requirements. MDOT plans to do their normal review with no plans for a traffic study. Discussion was held on right turn only.

City Manager Guetschow cautioned about requiring a right turn only causing problems on other streets in the area.

Chairman Rosier called for a motion regarding Traffic Study.

Commissioner Brummette asked to move to a different subject.

Commissioner Brummette moved, supported by Harag to move to increase the green space to 10' on both the north and south sides of the abutting R-1 residential properties. Denied. 4 Yes (Hoy, Leeser, Harag, Rosier) 4 No. (Snyder, Bly, Clarke, Brummette)

Commissioner Brummette moved to make an amendment to that the north and south sides have an 8' green space. No second.

Commissioner Brummette stated that some type of balance needs to be done. These need to be discussed individually.

Chairman Rosier called for a motion on traffic study.

No motion on traffic study.

Chairman Rosier called for a motion on requiring a 15' landscape buffer.

Chairman Brummette discussed changing the landscape buffer and the flexibility in the ordinance for this.

No motion on requiring a 15' landscape buffer.

Chairman Rosier called for a motion on permeable parking surface.

No motion on requiring permeable surface parking.

Chairman Rosier called for motion on right hand turn.

No motion on requiring right hand turn.

Chairman Rosier called for a motion on no fryers.

Commissioner Hoy moved, supported by Harag to require that no fryers be installed. Carried. 7 Yes. (Harag, Hoy, Leeser, Rosier, Snyder, Bly, Clarke) 1 No. (Brummette)

Chairman Rosier called for a motion on gating the rear parking lot after hours.

Commissioner Hoy moved, supported by Clarke to require that the rear parking lot be gated after hours. Carried. 8 Yes. 0 No. Commissioner Rosier moved, supported by Harag to eliminate the order speaker from the drive-thru. Carried. 7 Yes. (Clarke,

Rosier, Harag, Leeser, Brummette, Bly, Snyder) 1 No. (Hoy)

Chairman Rosier called for a motion to bury the storm water drainage.

Commissioner Brummette asked if it would be legal to require buried run off.

City Manager Guetschow stated that it was a grey area in the ordinance.

Commissioner Clarke moved, supported by Harag to require that the storm water drainage be buried. Denied. 6 No. (Bly, Clarke, Snyder, Hoy, Brummette, Leeser) 2 Yes. (Rosier, Harag)

Chairman Rosier called for a motion on requiring clean up on the neighbors property during and after the project.

Discussion was held on what is required in the demolition project.

Commissioner Brummette moved to take care of any materials that are hazardous during the construction process if this isn't taken care of in the demolition process.

No motion on requiring clean up on the neighbors property during and after the project.

Commissioner Brummette moved to withdraw motion to discuss.

Commissioner Brummette clarified that the conditional use applies to the property even if you were to sell the property.

Commissioner Brummette would like to move to add a 6' greenbelt on both the North and South side.

City Manager Guetschow stated that this would be important to take up during the site plan review because there are other implications by carving out 6' on either side of this property. This could impact the parking situation because of taking land on either side of the property by taking the 12' therefore this could impact the ordinance standards for parking.

Community Development Director Myrkle reviewed the resolution as amended.

RESOLUTION NO. 2017-PC08

A RESOLUTION TO APPROVE A CONDITIONAL USE FOR DAIRY QUEEN, 407 & 415 S. COCHRAN AVENUE IN THE CITY OF CHARLOTTE

WHEREAS, the owners of 407 & 415 South Cochran Avenue have submitted a request for a Conditional Use Permit for an expansion of the Dairy Queen at that location; and

WHEREAS, the City of Charlotte Planning Commission is required to make an affirmative finding that the following conditions have been met this proposal:

- Access shall be provided so as not to conflict with the adjacent business uses or adversely affect traffic flow on a major thoroughfare.
- Access to the site shall not be by way of a residential street.
- Trash receptacles shall be screened from public view and shall be covered to prevent debris from being a nuisance to abutting properties.

- Outdoor lighting of buildings or parking areas shall be shielded from abutting residential areas.
- All loading and unloading and parking shall be provided off-street.
- A 8-foot high completed obscuring wall shall be provided in abutting adjacent districts are zoned for R, RT, RM, MH, or OS-1 Districts.
- Require a perk test be performed
- No fryers to be installed
- Require that the rear parking lot be gated
- Require that the order speaker for drive-thru be eliminated

WHEREAS, the City of Charlotte Planning Commission has reviewed the proposed development and determined that these required conditions are met.

THEREFORE, BE IT RESOLVED that the City of Charlotte Planning Commission hereby grants a permit for Conditional Use for 407 & 415 S. Cochran for purposes of a restaurant expansion.

Chairman Rosier called for a roll call vote to accept Resolution No. 2017PC-08 as amended to include 8’ fence, to require a perk test, no fryers to be allowed, that the rear parking be gated and there be no ordering speaker. Carried. 8 Yes. 0 No.

City Manager Guetschow announced that due to the Planning Commission By-laws there would need to be a majority vote to extend the meeting past 10:00 P.M.

Commissioner Brummette moved, supported by Bly to extend the

meeting. Carried. 8 Yes. 0 No.

G. PUBLIC HEARING – SITE PLAN – 407/415 S. COCHRAN – DAIRY QUEEN:

Brett Roberts, stated that under their conditional use they have now permitted him to use a normal drive-thru system which would require a modification of the building in major form to make it a two window system. Under the conditional use that they did pass, unless they go back and amend that, because of the elimination of the ability to use a speaker if they continue with the drive-thru there will have to be modifications to the building to do two window ordering or they would have to do single window ordering which would be provided within the plan. Discussion was held on the impact of this on traffic with a one window system. With a single window it will slow down the process significantly.

Public Hearing Opened: 10:07 P.M.

Chris Laverty, 403 S. Cochran, questioned what the green space would be between the Dairy Queen and his property. Where does that stand.

Sharen Furman, 607 S. Cochran, stated that she does not appreciate the process. If the City Council can overturn decisions why is there a Planning Commission? She likes the idea of no speakers. She stated only the neighbors are making concession and it needs to be both sides.

Brian Osborn, 414 S. Cochran, asked for another vote on green space.

Lee Howser, 210 E. Henry, would like to see an increase in the green spaces and foliage enforced as strong as possible.

City Clerk Terpstra read a letter from **Mary Nordenbrock**, 418

Horatio, stating she is concerned about headlights in the back yard as well as noise and dirt.

City Clerk Terpstra read a letter from **Joy Mogg**, 430 S. Cochran, Apt. #1, stating she is concerned about the already dangerous traffic on Cochran Avenue.

Public Hearing Closed: 10:17 P.M.

H. ACTION – SITE PLAN– 407/415 S. COCHRAN – DAIRY QUEEN:

Commissioner Brummette posed the question to Mr. Roberts as to what he was offering to comply with the neighbors wishes to have the site plan flexible.

Mr. Roberts discussed the green space being 4.1 ft. on the south side and 1.5 ft on the north side. One of the problems on increasing the green space on those lines is that it would push more parking to the rear and explained that the lot is narrow. The engineer talked about the greenbelt issues because of room and how it would impact the parking.

There was discussion among board members regarding this.

Commissioner Brummette discussed the parking issues posed with the flow of traffic. Accessible parking was discussed as to where the spaces are placed.

Brett Roberts stated that it is very difficult to increase the green space in this plan. He feels that it has been maximized as much as possible for this plan after complying with all of the codes.

Commissioner Brummette asked if the Dairy Queen dictates the square footage for the building. Commissioner Brummette asked if he

could flex anything in the plan.

Brett Roberts stated that it is not a lack of flexibility but is about maximizing compliance. As far as being in compliance the code says either a fence or green space. It has been decided that it will be an 8' fence.

Discussion was held on fencing options with or without the trees.

Chris Lavery spoke regarding the distances from his property lines to the Dairy Queen property. If no green space is provided by them than he will have to put it on his side of the fence. He discussed the height of the building. The fence will be 8' tall, the building will be 17' tall. It will be higher than other fast food places on Lansing Rd.

Commissioner Hoy questioned changing the ADA parking area and what that would do as far as compliance to the standards.

Commissioner Harag discussed adding green space to the sides.

Community Development Director Myrkle clarified that the 8' fence around the perimeter will then be reduced to 4' closer to the road and within 15' of the right of way there will be no fence or a 2' fence that you can see through to maintain clear vision and corner clearance. Discussion was held on the existing trees and whether or not they would be used in conjunction with the 8' fencing.

Brett Roberts stated that due to the thickness of the trees it would be difficult to maintain a fence or construct one around the tree line. A lot of the trees are on the property line and limbs would be an issue.

Commissioner Brummette stated that if the trees are removed it will change the way that the soil is permeated and what actually sucks up the water there. It will impact the amount of standing water that is

there.

Community Development Director Myrkle stated that the conditional use that was approved he understood to impose an 8' fence around the entire perimeter of the property, however if this site plan is approved it uses a combination of fencing and landscaping. There needs to be some clarity on which they would like.

City Manager Guetschow clarified that when a wall is called for, the standard can also be met with landscaping. There for it can be a combination of the 8' fence and the existing trees. The speakers being eliminated are taken care of under the conditional use.

RESOLUTION NO. 2017-PC09

A RESOLUTION TO APPROVE A SITE PLAN FOR DAIRY QUEEN, 407 & 415 S. COCHRAN AVENUE IN THE CITY OF CHARLOTTE

WHEREAS, the owners of 407 & 415 South Cochran Avenue have submitted a site plan for an expansion of the Dairy Queen at that location; and

WHEREAS, the City of Charlotte Planning Commission is required to use the following checklist, and has made the following findings regarding this site plan:

- The location and design of driveways providing vehicular ingress to and egress from the site, in relation to streets giving access to the site, and including acceleration and deceleration lane needs is adequate.
- There is no need for additional service drives or marginal access roads as a result of this expansion.

- The parking lot layout, including ingress, egress and driveway widths conform to the requirements of the city's zoning regulations.
- Loading and unloading areas and building service areas are adequate and in compliance with the city's zoning regulations.
- Location and requirements for fences, walls and greenbelts are being addressed by a combination of new fencing, as well as existing trees and plants at the site.
- There are no special site features such as play areas or pools included in this site plan.
- Landscaping requirements are being met through new tree plantings, as well as existing trees and plants at the site.

And;

WHEREAS, the City of Charlotte Public Works Director has issued several directives that are contained in the attached memo.

THEREFORE, BE IT RESOLVED that the City of Charlotte Planning Commission hereby approves the site plan as presented, and subject to the conditions and directives included in the memo referenced herein.

Commissioner Bly moved, supported by Rosier to recommend approval of the site plan for Dairy Queen, 407/415 S. Cochran as presented in Resolution No. 2017-PC09 Carried. 5 Yes. (Clarke, Hoy, Leeser, Rosier, Bly) 3 No. (Brummette, Snyder, Harag)

Commissioner Snyder moved, supported by Harag to amend the motion to include a 10' green space to the North and South of the property. Denied. 4 Yes (Snyder, Rosier, Hoy, Harag) 4 No (Brummette, Clarke, Bly, Leeser)

LATE PUBLIC COMMENT: Ben Phlegar, 425 Horatio, thanked the commission for their time. He likes that the trees will remain and hopes that the fence goes as far as it can.

Chris Laverty, 403 S. Cochran, thanked the Planning Commission for all of their work and time. He knows that these are tough decisions.

Brian Osborn, 414 S. Cochran, thanked the commission and appreciates everything that they did.

There being no further business, Commissioner Leeser, supported by Harag moved to adjourn at 11:00 p.m.

Ginger Terpstra, City Clerk, CMMC