

Wayne Planning Commission Meeting Minutes
Monday, October 3, 2011

Chair Pat Melena called the regular meeting of the Wayne Planning Commission to order at 7:00 P.M., on Monday, **October 3, July 18, 2011**, in the Council Chambers of the Municipal Building. Roll call was taken with the following members present: Bill Kranz, Jeff Carstens, Jill Sweetland, Mark Sorensen, Lee Brogie, Jessie Piper, Chair Pat Melena, and Inspector/Planner Joel Hansen. Absent: Derek Hill.

Motion was made by Commissioner Sweetland and seconded by Commissioner Kranz to approve the minutes as presented for July 18, 2011. Chair Melena stated the motion and second. All were in favor; motion carried unanimously.

Chair Melena read the Open Meetings Act and advised that anyone desiring to speak should limit themselves to three minutes and wait until being recognized by the Chair.

Chair Melena stated the time was at hand to open the first public hearing Special Conditions and Conditions for Granting Exceptions, Section 90-355(4) Drive-Through Coffee Shop, applicant being Diane Pick.

Melodee Younts, was present to address the Commission. Mrs. Younts stated that her and her daughter Molly are planning to purchase the former McNatt's building for a coffee house and are also seeking a drive-through coffee shop, which is the reason for their request before the Commission.

Molly Younts was present to address the Commission as well. Ms. Younts stated that she has a long-term lease, with an option to purchase the lot at 7th and Dearborn from Diane Pick. Ms. Younts distributed to the Commission a permission notice from Randy and Diane Pick to represent them at the hearing. Ms. Younts further noted that they will be taking control of the lot starting October 15, 2011 and Sand Creek Post and Beam will be building the drive-through structure for them. Ms. Younts distributed a photo of what the structure will look like. It will have two windows on the back. The drive-through coffee shop will be open early in the morning for commuters and they also plan to offer sack lunches. Ms. Younts also distributed another drawing showing the three car lengths to the second window, which is the window they plan to use most of the time.

Chair Melena asked if anyone had questions for Ms. Younts.

Commissioner Sorensen asked if there would be walk-up service as well.

Ms. Younts stated there will be walk-up service. During the summer they hope to set up some picnic tables outside for customers to sit. They also plan to develop it further in the future by adding a pavilion and maybe do some farmer's market type activities.

Commissioner Carstens asked if they could describe the traffic flow and direction through the area.

Ms. Younts stated that most of the traffic will be on Seventh Street so they plan on turning in on Seventh Street and exiting on Dearborn Street. It will be one-way traffic flow, with people ordering at the first window and picking up at the second window.

Commissioner Kranz questioned where the pavilion would be located.

Ms. Younts stated that they have several areas where it could be located. It is not planned right now but in the future.

Commissioner Sorensen questioned if they are going to have walk-up traffic where do they plan to have parking.

Ms. Younts stated they plan to have parking spaces in the front of the building. They will be adding some more concrete to clean it up and make it look nice. They will be adding a new sign; so it will be cleaned up significantly but yes they will have some parking.

Commissioner Sorensen asked if the parking was going to be out in front of the building, would it be in the northeast corner.

Ms. Younts stated that they will have areas in front of the building. They plan to have the drive-through to the back side of the building so all foot traffic is out front.

Chair Melena asked for any further questions of the Commission or the public.

There being no further questions, Chair Melena closed the public hearing and opened discussion amongst the Commission members.

Inspector Hansen informed the Commission that a copy of the request is also in their packet next to the map. Inspector Hansen advised the Commission that the use permit will only be on Lots 1 and 17, which are the center two lots of the four

shown on the map. For the code that is on the back side of the map, is that it must be able to stack or queue space three vehicles.

Commissioner Kranz questioned how this would work if they have to cross a lot that is not part of the request.

Inspector Hansen stated they will exit out to the alley to the south and then onto Dearborn Street. They also plan to add some more concrete in this area. The lot to the east is a different owner.

Commissioner Sorensen questioned if they would be making a hard right turn.

Inspector Hansen stated that he worked with them as something for the Commission to view the three vehicle queue space. Basically he measured from the corner of the building to the lot line to show how close it could be. The red dashes on the drawing depict vehicles measured at 20 feet in length.

Commissioner Sorensen opined that it looks as if the corner of the building is going to be right on the lot line.

Inspector Hansen stated that was correct. There is a zero yard setback for B-1 zoning so they can go directly to the lot line. This may be something that they will work with when they go to set the building to make sure the angles work for turning. No matter what the Commissioner decides tonight, once the building is set they still have to set it so that three cars can fit before they get to the service window.

Commissioner Sweetland questioned what specifically they were approving.

Inspector Hansen stated the Commission would be approving the use for a coffee house drive-through on just the two center lots then they would need to meet the conditions when the building was set down that it would set such to allow for three cars before they reach the service window.

Inspector Hansen further stated that the use goes with the property not the property owner or lessee. So if in twenty years the property owner changes or the tenants changes, the use still goes with the property and it is still a coffee house drive-through.

Commissioner Brogie questioned if there are other areas in town where the alley is used as access to a business.

Inspector Hansen stated the old First National Bank drive-through on 7th and Main, and State National Bank drive-through. Inspector Hansen stated the alleys are for public use.

Commissioner Kranz questioned there seems to be a lot of left-hand turns and that is a pretty congested area. It seems that the city should be looking at doing something here.

Inspector Hansen stated that was addressed when the state did the highway by putting in a left-hand turn lane for the congestion and also the intersection was aligned with Pine Heights Road. Several people have brought up the idea of a stop light but that is up to the state and they will not issue or place one of those without the proper traffic count and there are just not enough vehicles on the street to warrant a stop light on the highway.

Commissioner Kranz asked about the ones on Main Street.

Inspector Hansen stated those were grandfathered in before those traffic counts were devised by the State. They wanted to get rid of both of those on 2nd and 3rd Street until the community objected.

Chair Melena asked for further discussion. There being none, Chair Melena asked for a motion.

Motion was made by Commissioner Sweetland and seconded by Commissioner Carstens to approve and forward a recommendation of approval to the City Council for the special condition and condition for granting exceptions, specifically Section 90-355(4) Drive-Through Coffee Shop, with the findings of fact being staff's recommendation, consistency with the Comprehensive Plan, and the current and future land use maps. Chair Melena stated the motion and second. Roll call vote was taken with the following: Commissioner Sorensen – aye; Commissioner Sweetland – aye; Commissioner Carstens – aye; Commissioner Piper – aye; Commissioner Kranz – aye; Commissioner Brogie – aye; and Chair Melena – aye. All were in favor; Chair Melena declared the motion carried unanimously.

Chair Melena stated the next item on the agenda was the public hearing amending Section 90-358(1) front yard – minimum yard requirements B-1 Highway Business District, applicant being City of Wayne.

Inspector Hansen informed the Commission of what federal-aid secondary streets are. They refer to streets that are not the highways but are eligible for federal funding. They include Dearborn, Pearl and Logan both south of Seventh Street, West 3rd, East 4th, Providence Road, and East 10th Street. There is a grid that is suppose to get through the city. Because these are federal-aid secondary designated streets, for example if looking at the setbacks on Dearborn Street, he would draw the line down the center of the street and then he would have to adjust over in the B-1 district 100 feet and in this case that puts the line to a point where the lots are unusable, if they were all one property owner. The other issue is that previous inspectors did not realize the designation of those federal-aid secondary streets, so the new building in Sunnyview Place on Providence Road is actually built halfway into the setback. By eliminating this language will put the front setback on all B-1 districts for every street in Wayne regardless of being federal-aid or not as long as it is not the highway, of 25 feet from the property line, which is what was used for the building on Providence Road. This language will make more lots more useable in Wayne and will also become compliant with what has been done in the past.

Commissioner Sweetland opined 25 feet versus 35 feet.

Inspector Hansen stated it is 25 feet versus 100 feet from the center line.

Commissioner Sweetland questioned what the 35 feet was for.

Inspector Hansen stated that it is 35 feet from the highway whichever is greater. Basically it makes every street that the city would call a local street, such as Pearl or Windom or Lincoln or 9th Street, they would all be treated the same, even though they are eligible for different funding. Previous inspectors were treating them all the same as well, even though at the time they were designated differently. By getting rid of that particular designation, it cleans up some of the rulings that were made in the past and makes them equal.

Commissioner Sorensen questioned if this would prohibit them from any federal funding.

Inspector Hansen stated that it would not.

Commissioner Kranz questioned why the second mention of federal-aid secondary was not deleted as well.

Inspector Hansen stated that it was missed and should be omitted as well.

There being no further discussion, Chair Melena asked for a motion.

Motion was made by Commissioner Kranz and seconded by Commissioner Sorensen to approve and forward a recommendation of approval to the City Council for the amendment of Section 90-358(1) Front Yard – Minimum Yard Requirements B-1 Highway Business District, with one additional deletion of "...federal aid-secondary..." from the section, with the findings of fact being staff's recommendation, consistency with the comprehensive plan, and the current and future land use maps. Chair Melena stated the motion and second. Roll call vote was taken with the following: Commissioner Brogie – aye; Commissioner Kranz – aye; Commissioner Piper – aye; Commissioner Carstens – aye; Commissioner Sweetland – aye; Commissioner Sorensen – aye; and Chair Melena – aye. All were in favor; motion carried unanimously.

Chair Melena stated the next item on the agenda was the public hearing amending Section 90-428(a) Front Yard – Minimum Yard Requirements B-3 Neighborhood Commercial District, applicant being City of Wayne.

Chair Melena asked for any new discussion. Chair Melena asked Inspector Hansen if this was similar to the public hearing they just had.

Inspector Hansen stated it was exactly the same just a different zoning district and the Commission may also need to change the language in the first paragraph to also remove the second reference to federal-aid secondary.

Chair Melena asked for any further discussion.

There being no further discussion, motion was made by Commissioner Brogie and seconded by Commissioner Kranz to approve and forward a recommendation of approval to the City Council for the amendment of Section 90-428(a) Front Yard – Minimum Yard Requirements B-3 Neighborhood Commercial District, with one additional deletion of "...federal aid-secondary..." from the section, with the findings of fact being staff's recommendation, consistency with the comprehensive plan, and the current and future land use maps. Chair Melena stated the motion and second. Roll call vote was taken with the following: Commissioner Sorensen – aye; Commissioner Sweetland – aye; Commissioner Carstens – aye; Commissioner Piper – aye; Commissioner Kranz – aye; Commissioner Brogie – aye; and Chair Melena – aye. All were in favor; motion carried unanimously.

Chair Melena stated the next public hearing was to amend Section 90-422 Permitted Principal Uses and Structures and Section 90-423(2) Permitted

Accessory Uses and Structures & Section 90-424(13 and 14) Exceptions B-3 Neighborhood Commercial District, with the applicant being City of Wayne.

Inspector Hansen stated this arises from some of the discussions by the Zoning Steering Committee and some members from the public as well. After some discussions with City Administrator Johnson, it was decided that this is something which needs to keep moving along and not get bogged down. The city is seeking to add single-family and two-family as a permitted use in the B-3. As previous discussion was this needs to be a mixed-use district and remove it from the list of use by exceptions and place it as a permitted use.

Inspector Hansen further noted the other issue under Section 90-423(2) Accessory Uses, if you have a one-family dwelling over or to the rear of the permitted use, such dwelling was for the primary use of the person owning or operating the commercial development. Inspector Hansen noted for the Commission that he has had someone inquire about this. The property owner stated the building has four different uses in it right now and they want to know about making the fourth use be a rental unit for single-family dwelling and that seems to fit reasonably well as part of the use that should not necessarily require them to live there but they could rent it to someone else. This would just open up the B-3 district and allow more uses.

Chair Melena then opened and closed the public hearing due to no public participation and opened discussion amongst the Commission members.

Commissioner Kranz asked if those who already fall under Section 90-423 are they already grandfathered in or how are they having other people live above them.

Inspector Hansen noted that he is not aware of anyone in a B-3 district that has a commercial business with someone living above or behind them. It is language that was in the zoning code and maybe it has made it so restrictive that is the reason no one does it because they do not want to be the ones living there; they would prefer to rent out the space for somebody else to live there.

Commissioner Kranz questioned if B-3 was Main Street.

Inspector Hansen stated B-2 is Main Street.

Chair Melena questioned the difference between B-2 and B-3.

Inspector Hansen stated B-3 is along Seventh Street to the east of town, also a section of B-3 up along the south side of campus and a little to the west. These are the only areas of town where B-3 is located.

Commissioner Sorensen questioned what exactly will this open up?

Inspector Hansen stated that someone could have a single-family or two-family home in that mixed use neighborhood. For example, Dave Stuthmann came before the Commission and got a use by exception last year so he could build the townhouse on 8th and Windom Street. He had to get a use by exception. Now if the zoning language had been changed, Dave could of just went and built the townhouse; he would not of needed the use by exception. This will help encourage re-development in this kind of area. This issue also came up when the Commission previously discussed re-building homes in a B-3 district if it was destroyed. This will definitely take it out of question because they (single and two-family) would be allowed in a B-3.

Commissioner Sorensen questioned if the area around Geno's and Accounting Plus was zoned B-3.

Inspector Hansen stated that it was zoned B-3 the area around the Post Office is also included.

Inspector Hansen stated that the Comprehensive Plan discusses more mixed uses and this would be a way to provide that use, with low level commercial and residential.

Commissioner Piper questioned if there would be adequate parking for residential and commercial.

Inspector Hansen stated the parking requirements are still in effect.

Chair Melena questioned for clarification that what this amendment does is allow people to proceed without applying for a use by exception.

Inspector Hansen stated that was correct; it eliminates the red tape.

Commissioner Carstens questioned if there had been a history of requests for use by exceptions in the B-3.

Inspector Hansen stated the most recent one being Dave Stuthmann. There have been other discussions in the past.

There being no further discussion, motion was made by Commissioner Sweetland and seconded by Commissioner Brogie to approve and forward a recommendation of approval to the City Council for the amendment of Section 90-422 Permitted Principal Uses and Structures and Section 90-423(2) Permitted Accessory Uses and Structures and Section 90-424(13 and 14) Exceptions, all in the B-3 Neighborhood Commercial District, with the finding of fact being staff's recommendation, consistency with the comprehensive plan, and the current and future land use maps. Chair Melena stated the motion and second. Roll call vote was taken with the following: Commissioner Brogie – aye; Commissioner Kranz – aye; Commissioner Piper – aye; Commissioner Carstens – aye; Commissioner Sweetland – aye; Commissioner Sorensen – aye; and Chair Melena – aye. All were in favor; motion carried unanimously.

Chair Melena stated that next item on the agenda is the public hearing amending Section 90-394 Exceptions and Adding Section 90-402 Permitted Conditional Uses in the B-2 Central Business District, applicant being City of Wayne.

Chair Melena opened and then closed the public hearing due to a lack of public in attendance. Chair Melena then opened discussion amongst the Commission.

Inspector Hansen noted for the Commission that within the last year or so he has had about three different parties look at downtown businesses wanting to buy empty buildings and start a business and they are looking at needing the upstairs as a means to cash flow that development. The buildings are old enough and some are deteriorating and need significant work and if you cannot use upstairs space it is just empty storage; it does not cash flow. They are looking at ways to fill those with tenants. Right now it is allowed but only as a use by exception. And again in an attempt to try and eliminate some of the cost of the extra fees and time to come and get those, the city is proposing to move it from a use by exception and make it a conditional use. The owner would still need to comply with the conditions of a use by exception; however, it would allow the Inspector to verify that the owner is meeting the conditions and then grant the use without them having to come to the Planning Commission and City Council. They would still have the requirement of two off-street parking spaces for each unit and they would still reserve the first thirty (30) feet of the ground level from the front lot line for commercial use to keep that commercial atmosphere downtown. They would still need to meet State Fire Marshal requirements to make sure life safety issues upstairs in residential were met, such as fire separation between the first and second floor.

Commissioner Brogie questioned if it needs to be multi-family; what if there was only one single-family.

Inspector Hansen noted that if you only had one apartment, you may consider it single-family. Some of the buildings are definitely big enough to have more than one apartment in them; therefore the reason to do multi-family.

Commissioner Brogie further opined are they ever going to get over the fact that providing residential does not mean providing parking.

Inspector Hansen stated that the issue is there is no overnight parking downtown. There are some streets that do not have the midnight to five parking restriction and actually downtown is 3:30 AM to 5:30 AM or 3:00 AM to 5:30 AM, or something similar. If there is no place for them to park, obviously even if the city did not have the overnight parking or a snow emergency and they did not have those stalls, those tenants would not have a place to park necessarily. It almost eliminates the use if you don't; who would you rent to if you did not provide them any parking. If just seems kind of second nature to put it in there and make it clear for everybody that it is an expectation.

Commissioner Sorensen noted that there is some off-street parking behind Dollar General, whether it is all leased or not.

Inspector Hansen noted that is what those property owners need to do if they do not have parking on their own property, is find parking for their tenants.

Commissioner Sweetland opined that it is only going to hurt the owner of the property to not have parking; if the tenants don't care then why not take it out.

Commissioner Brogie opined that it should be up to the owner to determine whether or not they want to provide parking.

Inspector Hansen noted that there is another section of the code regarding parking that he did not address that says if you do that you have to have stalls within something like 450 feet of your apartment anyway.

Commissioner Sorensen opined that they are on an entirely different subject of parking; really they are not even addressing the parking just trying to clean up some language. This is the first step.

Inspector Hansen opined that this is to try and streamline the process for individuals.

Commissioner Sweetland questioned if the apartments downtown were use by exceptions.

Inspector Hansen stated that was correct; unless they were being utilized as such in September of 1993 when the code was last changed then they are automatically grandfathered in.

Commissioner Kranz questioned if the parking needs to be on the property.

Inspector Hansen stated no, it needs to be within approximately 450 to 600 feet of the front door of the apartment.

Commissioner Sorensen noted that many building owners downtown lease the parking.

Inspector Hansen noted that the code states for residential structures multi-family, one and a half parking spaces are required per dwelling unit. Even if they got rid of two, they would still need one and a half by the parking code, which you can't have half a car, so you would need two anyway. So for a two dwelling unit you would get three parking spaces instead of two.

Commissioner Brogie questioned if it would be easy to remove the multi-family uses and just leave it as one apartment it would qualify.

Inspector Hansen noted that you would probably need to go back into the definitions and change them, so there would be a definition that reads residential means, single-family, two-family, and multi-family.

Commissioner Brogie questioned if they could just add single-family or multi-family.

Inspector Hansen noted that you also have two-family listed as a use by exception and that could also be moved into the permitted conditional uses. It would say the same thing as the multi-family with just single-family and two-family added.

Chair Melena asked for further discussion, there being none, motion was made by Commissioner Brogie and seconded by Commissioner Sweetland to approve and forward a recommendation of approval to the City Council to amend Section 90-394 Exceptions by deleting subparagraph 5 Multifamily residential uses, subparagraph 8 Single-family dwelling, and subparagraph 10 Two-family dwelling and adding Section 90-402 Permitted Conditional Uses, along with changes being to add Single-family dwelling and Two-family dwelling and forward a recommendation of approval to the City Council with the findings of fact being it is staff's recommendation and the consistency with the Comprehensive Plan and

the current and future land use maps. Chair Melena stated the motion and second. Roll call vote was taken with the following: Commissioner Sorensen – aye; Commissioner Sweetland – aye; Commissioner Carstens – aye; Commissioner Piper – aye; Commissioner Kranz – aye; Commissioner Brogie – aye; and Chair Melena – aye. Chair Melena stated all were in favor; motion carried unanimously.

Chair Melena stated the last item on the agenda is a public hearing for a rezoning request to amend all of Western Ridge Third Addition to B-1 Highway Business District, with the applicant being City of Wayne.

Inspector Hansen stated that this one is strictly a housekeeping issue. The intent is not to change the zoning on anyone. What happened was when the subdividers came and told the city they wanted to create this subdivision, they drew the north line of that addition based on what they thought was the zoning line. When the city got to researching this, the rezoning which was done in 2006 it was based on a map and that line was not legally definable. So this is just to clean things up and to make everyone aware that all of Western Ridge Third Addition is zoned B-1 and to make it so it is legally definable. At the time it was done, Western Ridge Second Addition was not yet platted so it was just a line out in the middle of a field. A metes and bounds survey should have been done prior but was not completed.

Inspector Hansen opined that there may be other issues coming up in the future if the area to the north is ever subdivided as well. Western Ridge Second Addition will not have any issues as that was a Planned Unit Development.

Inspector Hansen opined that he believes the plat for Western Ridge Third Addition may need to be re-done as well as the surveyor made some errors. This was discovered when Inspector Hansen went to draw the plat on his CAD system and the County as well, and the plat did not fit with the dimensions they were given. They did not have any way of knowing that beforehand; they just trust it is correct.

Chair Melena opined that the Commission puts their name on these things believing that they are accurate and correct and this is probably not going to be a big deal because they are not moving anything but the time will come when they have an audience because their zoning line was five feet or fifty feet off of where they thought it was. His only hope was that they can limit the occurrence of these things going forward.

Commissioner Sorensen questioned what the problem was; was it problems with the surveyor in town getting things done accurately.

Inspector Hansen stated it was just a city process at the time that was not probably done correctly. Inspector Hansen stated that he has learned a lot just by going to the Planning and Zoning meetings and having Dave Ptak give seminars on things that pertain to zoning. It was just city policy back then that was not proper.

Commissioner Carstens questioned the potential of having the plat re-drawn, will that undue what the Commission is doing at their meeting tonight?

Inspector Hansen stated that it would not undo anything they are doing at the meeting. That is why the city wants the line to match the subdivision. So if something changes it will match whatever gets changed on the plat. This ties it to the plat.

Commissioner Kranz mentioned the Commission has been trying to clean-up a lot of other things around the city, where the city has similar situations where the boundaries are not tied to anything legal. Are the Commission / City going to start doing this or is it going to just wait until something comes up.

Inspector Hansen stated that as the City finds them the City will bring them to the Commission. He further stated that he was not aware of any others at the time. Now that the City knows of this they will make them bear the cost when they come to sub-divide.

Chair Melena asked for any further discussion; there being none, motion was made by Commissioner Brogie and seconded by Commissioner Sorensen to approve and forward a recommendation of approval to the City Council to rezone all of Western Ridge Third Addition to B-1 Highway Business District, with the findings of fact being it is staff's recommendation and consistency with the Comprehensive Plan and current and future land use map. Chair Melena stated the motion and second. Roll call vote was taken with the following: Commissioner Brogie – aye; Commissioner Kranz – aye; Commissioner Piper – aye; Commissioner Carstens – aye; Commissioner Sweetland – aye; Commissioner Sorensen – aye; and Chair Melena – aye. Chair Melena stated all were in favor; motion carried unanimously.

There being no further business, motion was made by Commissioner Sweetland and seconded by Commissioner Carstens to adjourn the meeting. All were in favor; motion carried unanimously; meeting was adjourned.