

STERLING HEIGHTS PLANNING COMMISSION
REGULAR MEETING
CITY HALL
AUGUST 13, 2015

LOCATION: City Council Chambers, 40555 Utica Road, Sterling Heights, MI
SUBJECT: Minutes of the Regular Meeting of the Planning Commission held August 13, 2015

Mr. Rowe called the meeting to order at 7:00 p.m.

Members present at roll call: Al Kollmorgen, Edward Kopp, Stefano Militello, Donald Miller, Jeffrey Norgrove, and Leonard Reinowski, and Gerald Rowe

Members absent at roll call: Benjamin Ancona, Excused
Paul Jaboro, Excused

Also in attendance: Donald Mende, City Planner
Clark Andrews, Assistant City Attorney

APPROVAL OF AGENDA

Moved by Militello, supported by Kopp, to approve the agenda as presented.

Ayes: Militello, Kopp, Miller, Norgrove, Reinowski, Rowe, Kollmorgen

Nays: None

Absent: Ancona, Jaboro

Motion carried.

CASE PPCM-1145 MASTER LAND USE PLAN UPDATE

Mr. Rowe asked Mr. Mende to provide overview of the Master Plan Update.

Mr. Mende stated that the Planning Commission is currently underway with a Master Land Use Plan update, the Parks and Recreation Master Plan, which is required to be updated every five years, as well as the Non-Motorized Transportation Plan. Early this year, City Council approved Wade-Trim as the planning consultant to assist with the Master Land Use Plan update. Mr. Mende stated that Adam Young, present and a community planner representing Wade-Trim, will be giving a brief status report of where the company stands at this time with an update.

Mr. Adam Young, a professional planner with Wade-Trim, stated that the Planning Commission did receive a two-page handout summarizing a brief overview and highlights of the background studies of the Master Plan and where the company is at with this project. He stated that the guiding principles of this project are following the principles of smart growth which is seeking to increase livability and encourage a high quality of life which is achieved through place making recommendations. They will also be looking at the environment and treating the environment appropriately so they are also going to promote an Environmental Stewardship throughout the plan as well. Mr. Young stated that as for the schedule, they have been working on the project since the kickoff in the spring and this summer, they have been focused on the background studies providing land and facility need assessments. In the fall, citizen engagement opportunities will be looked at and these will be done through traditional workshops, open houses and forums as well as through online mechanism with asset mapping where citizens can identify areas and locations within the community that they feel could be assets or opportunities for change. He stated that they will continue engagement throughout the winter months in developing plan recommendations and their schedule will have the Recreation Plan adopted by March 1, 2016, which is the deadline submittal for the DNR. The Master Plan will take a little extra time so looking at spring and summer of 2016 which will be the time frame for the adoption of the Master Land Use Plan. Mr. Young also stated that he has provided Mr. Mende with hard copies of the Master Plan and Recreation Plan draft reports which have been prepared to date and highlight the background studies. Next month they plan to provide the land use forecast looking at housing needs, land use needs, local market conditions and other opportunities. These reports will also be made available on the city's website. Mr. Young would like for the Planning Commission to read and provide any feedback to the consultant team throughout this process. In addition to the two-page handout, Mr. Young also provided graphics that highlight some of the key findings from the background studies to show some of the key trends going on with the community.

Mr. Rowe asked for any discussion from the board and thanked Mr. Young.

PPCM-1146 – JAAFAR CHEHAB

Request for Special Approval Land Use to allow group worship in a R-60 (One-Family Residential) district. North side of Fifteen Mile Road between Hatherly Place and Davison Drive in Section 29.
Property Address: 4939 – 5085 Fifteen Mile Road.

Mr. Rowe stated that this a Special Approval Land Use item and does require 5 affirmative votes from the commission. Mr. Rowe also mentioned that this is a Land Use matter. This matter deals with the layout of the site, traffic, setbacks and other regulations that are related to a Special Approval Land Use and it is the Planning Commission's duty to determine if this proposal meets all the provisions and standards of the City's zoning ordinance. No consideration will be given to religious affiliation or the ethnicity of the people proposing to occupy this facility and the Commission will not accept any comments related to these and any such comments will be deemed inappropriate and you will be ruled out of order. Therefore, the Commission respectfully asks that questions and comments be limited to the land use matters and be limited to 3 minutes. The Commission respectfully requests that the audience cooperate and adhere to the stated guidelines.

Mr. Rowe asked Mr. Mende to provide background on the case.

Mr. Mende stated that this is a Special Approval Land Use for a mosque located on the north side of Fifteen Mile Road between Ryan and Mound in Section 29. Mr. Mende stated he would like to explain what a Special Approval Land Use actually is. He stated that this request is for the approval of a Special Approval Land Use, and it is not a request for a rezoning. Mr. Mende explained that this is an R-60 (One-Family Residential) zoned property and the Sterling Heights Zoning Ordinance does permit group worship in the R-60 (One-Family Residential) zoning district as a use subject to a Special Approval Land Use. A rezoning, as the Planning Commission does know, is an actual change in zoning and this is not changing the zoning of the property. The Zoning Ordinance for each zoning district is broken down into two parts; uses that are permitted as a matter of right with no special reviews and no special conditions or requirements, and those that require Planning Commission review and approval, known as a Special Approval Land Uses. Those uses that are listed under the Special Approval Land Use provisions of the Zoning Ordinance typically have extra conditions attached that have to be met and approved by the Planning Commission, and this case is no different. All forms of group worship, whether it be a church, a mosque, a temple, a synagogue, have to be reviewed in this fashion. It has been established that the use is a permitted use under the Zoning Ordinance and we will now look at the specific site plan ordinance requirements. The land consists of five parcels which will be combined into one and the building footprint is approximately 20,500 square feet on 4.3 acres. Mr. Mende presented the petitioner's drawing for parcel shape, dimensions, and building location. In an R-60 zoning district, a residential home has a building lot coverage requirement of 30%. That is, no home can exceed 30% of that lot area for all structures. For reference, a typical commercial building is about 20% lot coverage and in this instance, the mosque on this 4.3 acres of land is approximately 11%. Mr. Mende stated that the building setback requirements were reviewed and worship facilities must have a 40 foot front yard setback and 50 foot side and rear yard setback. This structure complies with those ordinance requirements. Worship facilities may also be higher than 30 feet in height provided that the buildings setbacks are increased accordingly. There are two spires proposed in this use that trigger that setback requirement and the structure does comply with those increased setback requirements. The main worship space is 3,204 square feet and can accommodate 325 people. The Zoning Ordinance parking requirements would necessitate 109 parking spaces be provided on the site and 130 parking spaces are being provided. Mr. Mende stated that in regards to the site engineering, the site plan provides two drives out to Fifteen Mile Road. Fifteen Mile Road is classified, under the Master Road Plan, as a major thoroughfare having an ultimate right of way of 120 feet in width. Worship facilities are only required to be located on secondary roads or greater, which have an ultimate right of way of 86 feet in width. As to the storm water and drainage, the City Engineer has reviewed this plan and has indicated that all storm water would be contained onsite and directed into a new storm water system that would be built by the petitioner. All perimeter grading would be done and not impact surrounding properties. Mr. Mende added that site plan review is another phase after Special Approval Land Use, if approved, that will be required to complete all site plan review requirements with all city departments and any county departments as necessary. Lastly, relating to the engineering issues, is the status of the dirt driveway that is located on the west end of the property. This easement also serves two property/home owners at the north end of that dirt driveway. There has never been any formal easement that was recorded that granted access through these properties to those two homes. The current property owner owns the southerly portion of that drive. The very first homeowner, as you go north, controls a portion and the last homeowner utilizes the drive to access their property. As a condition of site plan approval during site plan review, the city engineer would work with the petitioner to

create a new easement that will clarify and protect all property owners that have access to that drive. Mr. Mende mentioned that he would also like to address with the commissioners a few issues that have been brought up to him as well. First, being call to prayer. Mr. Mende did discuss this with the petitioner and the petitioner has stated that all of the mosque's activities will be conducted inside the mosque building (except for a small children's play area) and that there will be no external/outdoor devices that would project sounds of any type outside the building including music, voices, or other sounds which could constitute a nuisance to the surrounding residential neighborhood. The petitioner has no objection to this being a condition. Second, there would be no objection to a liquor license. For any liquor license application going before the Michigan Liquor Control Commission, any worship facility within a certain distance from that proposal can object to the issuance of a liquor license. Mr. Mende indicated, even though there are no commercial buildings surrounding this property, he wanted to make clear with the petitioner that there would be no objection if there ever was a request for a liquor license, and the petitioner indicated there would be no objection to any liquor license being requested. Third is the floor plan. The floor plan indicated a multi-purpose room in the facility and there have been rumors that this will be used as a banquet hall. All worship facilities, per the Sterling Heights Zoning Ordinance, does allow social halls as part of their worship facility. The ordinance specifically prohibits those multi-purpose rooms be used as rental halls for the general public. There are also smaller meeting rooms and offices and these can be used for a variety of reasons including religious education. There is no intent for a school at this location, which would require a separate review and approval by the Planning Commission. This is not being requested in this proposal. Lastly, is regarding traffic. Fifteen Mile Road, as stated previously, is a major thoroughfare with five lanes. The average traffic count at this location is approximately 11,000 vehicles per day, which is an average for major roads.

Mr. Mende stated that he would like to remind the Commission of two laws that specifically impact the review of this request. First is the Religious Land Use and Institutionalized Persons Act (RLUIPA). RLUIPA is a federal law that was passed in 2000 to provide stronger protection for religious freedom by prohibiting zoning laws that substantially burden religious exercise. RLUIPA requires local governments to:

1. Not totally exclude religious assemblies from a jurisdiction.
2. Give religious and non-religious institutions equal treatment in land use regulations.
3. Not use religious discrimination in land regulations.
4. Not unreasonably limit religious assemblies, institutions, or structures within a jurisdiction.

The second law is a state law, the Michigan Zoning Enabling Act, which specifies that a request for a Special Approval Land Use shall be approved if that request is in compliance with all standards and conditions of the Zoning Ordinance.

Mr. Rowe called the petitioner to come forward to present his case.

Mr. Jaafar Chehab, petitioner residing at 3336 Farmdale in Sterling Heights. Mr. Chehab stated that he has been a resident of Sterling Heights since 1978 and also is on the board of directors for AICC (American Islamic Community Center) currently located in Madison Heights. The AICC has no affiliation with any other local, state, national, or international group and would like to locate to this area as the majority of their members reside in the City of Sterling Heights and 10 out of the 12 board members live in the City of Sterling Heights. Mr. Chehab stated that he has been working with Mr. Mende for the past year and the mosque will be open for individual prayer daily, typically in the afternoon, and group worship is held on Friday afternoons. Additional services are held during special religious occasions such as Ramadan.

Mr. Rowe asked for any questions from the board to the petitioner. None at this time.

Mr. Rowe asked for any public participation and mentioned questions will be answered at the end of public hearing.

Jazmine Early, 33294 Cherry Lane, presented drawings and discussed Land Use and traffic issues, opposed.

Donna Organek, 4666 Barcroft Way, is concerned with traffic, wondering if the height and make of the spires will be reflective, and any fogging from the kitchen of proposed building.

Michael Gretel, 4885 Fifteen Mile Road, would like to know if the Petitioner currently owns the property, responsibility of the dirt easement, liquor license within distance of the school, opposed.

Zack Toma, 35772 Duke, feels value of the homes will decrease, opposed.

Beverly Mark, 35248 Wright Circle, stated the structure does not conform to the surrounding area and why build in a residential area, opposed.

Richard Mark, 35248 Wright Circle, opposed.

Ali Hijaizi, 37757 Juniper Drive, member of the AICC, supports.

Michael Forrest, 4845 Fifteen Mile Road, opposed.

Amy Elzhenni, 5038 Carraway Drive, supports.

Wafa Catcho, 4962 Fifteen Mile Road, opposed.

Gus Bakalis, 35271 Rockingham Drive, opposed.

Don Wright, 4998 Comstock, opposed.

Hussan Sobh, 5002 Surry Drive, supports.

Dr. Olubuni Aluko, 4571 Barcroft, opposed.

Jennifer Fawaz, 2511 Mellowood, supports.

William Joseph Demaire, 4189 Nicholas, would like to know the status of the original farmhouse property, would a crosswalk bridge be built in this location for children to cross, and drainage issues, opposed.

James Misko, 35635 Hatherly Village, opposed.

Rawa Selou believes there is no need for additional mosques in the City, opposed.

Anda Nicko, 4926 Fifteen Mile Road, opposed.

Sam Younis, 4913 Maceri Circle, opposed.

Abdul Sobh, 5002 Surry Drive, supports.

Rosie Lulgjuraj, 4241 Anthony Drive, concerned with the tree removal, opposed.

Michael Lukas, 3594 Davidson Street, opposed.

Diane Ratinski, 34441 Koch Avenue, opposed.

Hana Aboona, 38122 Slate Drive, opposed.

Russell Phillips, 4923 Comstock, concerned with emergency response, opposed.

Leonard Redmond, 4728 Chadbourne Court, opposed.

Mark Stanczyk, 35100 Koch Avenue, opposed.

Bob Hardy, 4722 Chadbourne Court, concerned with property taxes, opposed.

Cortlandt Quin, 4855 Burr Court, opposed.

Kenyon Cleghorn, 4867 Burke Court, asks if the local police and fire departments were informed on this proposal and the lack of notification and time of this proposal, opposed.

Matthew Wood, 4867 Burke Court, opposed.

Carol Blake, 35122 Hatherly Place, opposed.

Hussan Jabere, supports.

Dan Wisniewski, 34826 Tyler Drive, opposed.

Said Intwan, states voting should be done by majority rules.

Jilinda Molnar, 5034 Northlawn Drive, opposed.

Steven Molnar, 5034 Northlawn Drive, opposed.

Beth Huffman, 35120 Koch Avenue, opposed.

Alex Maritzczak, 4825 Lenomar Court, presented a handout to the board for the record, opposed.

Paul Smith, 41280 Utica Road, concerned with the location, opposed.

Karen Wiegand, 37563 Hanson, concerned that the name of the proposed building will not be listed and the proposed construction time of the building, opposed.

Nadia Maddens, 4848 Lenomar Court, concerned with the height of the spires, opposed.

James Reaume, 5002 Rockdale Court, opposed.

Orest Zachary, 4843 Lenomar Court, wondering if this is the final process of approval stage, opposed.

Mr. Rowe clarified that yes it is the final step in the approval process and no, it does not go in front of the City Council.

Amira Bajoka, 34536 Dequindre Road, concerned with where the money is coming for such a big project, is it an individual or organization who is proposing this proposal and are they affiliated with any other organizations and if so, which ones, opposed.

Thomas Hall, 35120 Koch, opposed.

Zirka Duzey, 4658 Singh Drive, opposed.

Dr. Fatima Ali-Ahnad, 35055 Eden Park, supports.

Anne Piekarz, 3853 Burke Court, would like to know how many homeowners were notified by mail of this proposal, how this improves the community, what is the height of the spires that will be built, height of the average home in this area, heights of the tallest building in this area, and how much of a tax loss, opposed.

Randy Thayer, 4991 Comstock Drive, opposed.

Debi Rrasi, 5072 Fifteen Mile Road, opposed.

Michael Goze, 4830 Fifteen Mile Road, opposed.

Zina Kozak-Zachary, 4843 Lenomar Court, concerned with the exterior lighting at night, opposed.

Linda Gorbiz, 35024 Davidson, opposed.

Hanaa Batros, 4962 Fifteen Mile Road, opposed.

Dennis White, 12875 Whitfield Drive, asked if public participation makes a difference or not, opposed.

Claude Younan, 35102 Hatherly, stated majority should rule.

Steven Zielinski, 3670 Brady Drive, asks if there are restrictions on the occupancy time of use of the proposed, opposed.

Tony Akrawi, 4710 Chadbourne, opposed.

Mr. Rowe asked if any other public participation, being none, public participation closed and a call for a ten minute recess at 10:00 P.M.

Mr. Rowe called to order at 10:14 P.M. and brought the item back to the table and asked Mr. Mende to answer/comment on questions brought forward.

Mr. Mende stated the following on the issues:

1. Traffic Light: Traffic signalization is handled through the Macomb County Road Commission. The city would need to request a traffic study by the county to evaluate the need for a traffic signal.
2. Dome Painting: Reflection of the dome and the painting of the dome can definitely be discussed during site plan review for the structure.
3. Dirt Road Easement Responsibility: The dirt road is owned by two property owners, the current property owner who has a purchase agreement with the mosque and the first homeowner, Mr. Stanczyk.
4. Ownership of the Proposed Property: The petitioner does have a purchase agreement with the current owner of the property subject to receiving all municipal approvals.
5. Tree & House Removal: There are five lots involved with two houses, and both of these houses will be removed. The city does have a tree preservation plan they would be required to follow. There is also a replacement ratio that they would need to follow to replace trees that are removed, in addition to our standard landscaping ordinance requirements.
6. Traffic Counts: The traffic counts are from 2014 and are a joint effort between the Macomb County Road Commission and SEMCOG, which is the Southeast Michigan Council of Governments.
7. Drainage Problems: Mr. Mende encourages anybody that feels they have a drainage issue caused by off-site drainage from abutting property owners, to contact the Engineering Department. They would be able to send out a civil engineer to review.
8. Existing Homes and Tax Revenue Loss: Not sure what the taxable value amounts are on those two existing homes but the city's portion of property taxes is approximately 15 mills that goes to the city.
9. Historical Farmhouse: This house does not have the State of Michigan historical marker designation.
10. Number of Mosque's in Area: Currently there are two within the city; one at Ryan and Dobry Drive and the other at 17 Mile and Ryan.
11. Residential Zoning: The Sterling Heights Zoning Ordinance lists worship facilities in residential zoning. It is not a rezoning and is not a variance.
12. Loss of Tax Base: The state law is very clear as it relates to taxation in the State of Michigan. It regulates exempt properties and states who is exempt from property taxes.
13. Resident Notification: Sterling Heights follows state laws. The Zoning Enabling Act specifies notification and how it is to be done and when it is to be done. On July 22, 2015, the ad was sent to the newspaper for this agenda for publication on July 26, 2016. This is nineteen days prior to the public hearing and state law only requires it be done 15 days prior to public hearing. On July 22, 2015, the ad was also on the city's website indicating the date of the hearing. Also on July 22, 2015, the Department of Public Works was notified to erect the sign on the property indicating the public hearing date. There is no state law requirement for a sign located on the property. This is done as a courtesy by the city. On July 23, 2015, the agendas were mailed to the petitioners and to the property owners by certified mail and on July 28, 2015, postcards were mailed to all property owners within 300 feet in accordance with the State Act, which states that these cards must be mailed within 15 days prior to public hearing. Of the postcards that were mailed, 34 property owners located within 300 feet this proposed property.
14. Site Plan / Approval Process: The Planning Commission is the final say for a Special Approval Land Use, however site plan review is still required if the Special Approval Land Use were to be granted, there is a site plan review process that is involved that includes the Engineering Department, Building Department, Fire Marshall, Police Department and any county agencies, Department of Public Works and Planning Office to do a complete site plan review of the property and the development to ensure it complies with all requirements.

15. Proposed Building Height: This can be discussed further with the petitioner during discussion by the board members.
16. Previously Proposed Development of this Property: There was a 14 Unit Site Condominium development proposed years ago and averaged approximately 1200 square feet each. With the downturn in the economy, the developer dropped the project.
17. Addresses: It is a requirement in the building code and building regulations that every structure in the city have an address on its building. This is reviewed, approved and inspected by the building official in conjunction with the fire marshal and the civil engineer. There is no ordinance requirement that says that a business has to indicate their business name on the building.
18. Average Height of Homes/Buildings in this area: The R-60 zoning district has a requirement of two stories 30 feet in height for a home.
19. Time Limits: Site Plan is good for 1 year. The petitioner must receive a building permit within one year otherwise the site plan lapses. A six month extension to that is possible. The building permit is good for six months. As long as there is activity on that building permit, the building official considers that an active permit.
20. Occupancy Constraints: Occupancy is determined in conjunction with the site plan review by the building official and the fire marshal to determine the actual occupancy based on the floor plans and layout that are presented.
21. Exterior Lighting: The city's zoning ordinance does require a photometric plan to be submitted which will have to indicate all lighting, not only on the walls but in the parking lot. The petitioner has presented a preliminary drawing showing parking lot lighting. No spillover light over any property line is allowed.
22. Time Restriction on Services: Time limitations cannot be restricted. RLUIPA is pretty clear on stating that no unnecessary burdens be placed on religious exercise.
23. Emergency Response and Notification to Emergency Departments: The Police Department was made aware and has been aware of the project. All departments will have site plans to review as part of the site plan review process.

Mr. Rowe asked for any questions from the commissioners.

Mr. Norgrove asked if the City did a traffic study. Also, would the city be in favor of conducting a full impact study with social and economic studies.

Mr. Mende stated that the commission has received traffic counts and shows that it is not out of the normal with some of the other major roads. As for any additional studies, certainly the Planning Commission, as part of their discretionary review standards, can ask the petitioner to provide this. Mr. Mende stated that he did speak with the city assessor regarding property values, and the city assessor indicated to Mr. Mende what could affect property values are more of cultural issues or perceived problems, rather than an actual decrease in property values or property assessments by his office.

Mr. Kollmorgen would like to hear from the Assistant City Attorney, Mr. Andrews, if the Planning Commission did ask for a traffic study, would it be in violation with RLUIPA.

Mr. Andrews stated that this would depend upon how other cases involving similar types of religious use cases have been handled in the past as there is a need for consistency in the way we treat these cases.

Mr. Miller asked Mr. Mende if he sees this property as being developed as R-60 residential, and if the dirt road could provide access to future residential property.

Mr. Mende stated that the dirt road is not a road, it is not a public street, it's a private driveway. This property can be developed as One Family Residential.

Mr. Rowe stated that he has a concern with the scale of the building on this particular site and having 60 foot towers / spires. He does feel traffic is an issue but does not feel an entire impact study would need to be done.

Mr. Norgrove stated his concern is with the size of the building being 20,500 square feet and the actual worship area only being 3,000 square feet. He asks Mr. Mende, if later on, do they plan on asking for a school, will they be running a daycare out of this building, and what are the plans for the kitchen area.

Mr. Mende stated that the kitchen is to be used only for the members. It cannot be used as a general banquet hall for the general public enforced by code enforcement. As far as a school, they have no intentions of opening a K-12 school. Daycare facilities are permitted.

Mr. Norgrove asked if they can regulate the hours of operation on the hall and kitchen.

Mr. Mende stated no, they cannot regulate these.

Mr. Rowe asked for the petitioner to comment on any issues brought forward.

Mr. Jaafar Chehab stated his engineer, Mr. Abraham Chehab is also present for any questions. Mr. Jaafar Chehab stated they have no intentions of opening a daycare and no intentions of using the hall except for their own members, such as a funeral. The hours of operation are during Ramadan, which varies according to the sun, and mostly during Friday afternoons from 12:00 – 2:00 pm. Ramadan is one month per year. This is a local community for people that live in the city and will not be treated as a business but a house of worship.

Mr. Rowe asked Mr. Jaafar Chehab if he had any comments about the height and what the exact height is of the towers/spires and dome.

Mr. Jaafar Chehab stated that he could adjust the height accordingly.

Mr. Abraham Chehab stated including the building, the dome is 60 feet. The building itself is 30 feet and the dome rises to 60 feet. The dome is less than the spires yet they are still in the design stage but definitely will stay within code.

Mr. Miller asked Mr. Abraham Chehab what the height is of the dome from the finished floor level.

Mr. Militello stated that it is a total of 46 feet per the numbers of the submitted drawing.

Mr. Abraham Chehab stated it was roughly 22 feet above the building.

Mr. Rowe asked if other locations have been looked at.

Mr. Jaafar Chehab stated they have been looking for several years now and this proposal finally met requirements.

Mr. Norgrove questioned, as noted in the backup material, if the property is capable of being developed the way it is currently zoned. He asked Mr. Mende the size of vacant property at Fifteen and Dequindre Roads, just east of Cherrywood Nursing Home.

Mr. Mende stated he does not know.

Mr. Kollmorgen asked if the tower being non-translucent or non-reflective is a problem.

Mr. Abraham Chehab stated that they would have no reflective material on the dome and intend to have more of a natural material to the whole building.

Mr. Kollmorgen asked if they are open to negotiations on the dome and are not tied into a 60 foot dome for religious reasons. The petitioner stated they are open to negotiations. He would also like to know if the petitioners are looking to expand with member status and if they are financially capable of building such a large structure in addition to adding drainage.

Mr. Abraham Chehab stated that the drainage with all be done per the city code and will meet all the requirements.

Mr. Kollmorgen wants to be assured they can handle this development and the cost of it so that they can do all this in a reasonable amount of time. He would like to know if there is a loan that is involved.

Mr. Jaafar Chehab stated they do have the finances to move forward but nothing has been done right now since they are still waiting for approval for this project.

Mr. Militello stated, for the record, that this process is typical in the commercial industry. The property is bought subject to zoning and once the zoning has been taken care of, the deal gets consummated.

Mr. Rowe asked if any there are any other questions from the commissioners. Being none, Mr. Rowe asked that since there were a lot of issues and discussions raised, if there was a motion to postpone.

Mr. Kollmorgen stated that he would like to entertain any more questions that Mr. Norgrove has prior to making a motion.

Mr. Norgrove stated that he does have a concern with the removal of five properties that are considered taxable plots and two homes being leveled. He is concerned with how this will affect the surrounding neighborhood and the infringement on the site lines. He stated that he is just not comfortable with making a decision at this time with all that he has heard along with the site plan being seen.

Mr. Kollmorgen stated that the petitioner does need five out of seven votes and the petitioner needs to be asked if he would like to proceed.

Mr. Rowe asked the petitioner, after hearing all the issues raised tonight, questions and comments, if he would be in favor of a one month postponement.

Mr. Jaafar Chehab stated that he does not feel that a postponement would change anything. We have the right to be here and what is a month going to do.

Mr. Rowe asked Mr. Mende, in regard to a postponement, and knowing that this is a part of site plan review, and considering the scale of the development relative to the property, would this be something that could be further discussed.

Mr. Mende stated that it is within the commission's authority to ask this and if they feel that the development is out of scale with the neighborhood and the plan should be amended, then the commission can give the petitioner that direction.

Mr. Rowe stated to the petitioner as to his question of what a postponement could do, is that if he could review the scale of the development, it would be appreciated. This is not an issue of denying the proposal but there are some discretionary provisions, Article 25 of the Zoning Ordinance, for Special Approval Land Use that are discretionary kinds of conditions that must be applied to the proposal.

Mr. Jaafar Chehab stated that he would have no problem for a month.

Motion by Norgrove, supported by Miller, in the case of PPCM-1146, Jaafar Chehab 4939-5085 Fifteen Mile Road, to postpone the Special Approval Land Use, to the meeting of September 10, 2015 so that the petitioner may provide additional information to the Planning Commission and that the commission questions will be addressed by Mr. Mende and the Planning Office.

Mr. Rowe asked for any discussion on the motion. None.

Ayes: Norgrove, Miller, Reinowski, Rowe, Kollmorgen, Kopp
Nays: Militello
Absent: Ancona, Jaboro
Motion Carried.

Mr. Rowe stated that this will be carried out at the September 10, 2015 meeting and no additional notice will be sent out.

Mr. Rowe called a recess.

Mr. Rowe called the meeting to order.

CASE PZ15-1137 – SELECT COMMERCIAL ASSETS

Request for Convention Rezoning from M-1 (Light Industrial) to C-3 (General Business). West side of Van Dyke between Fifteen Mile Road and Metropolitan Parkway in Section 28.
Property Address: 36401 Van Dyke.

Mr. Rowe asked Mr. Mende to provide background of the case.

Mr. Mende stated the petitioner is proposing a conventional rezoning for the former John R Fuel & Supply parcel located on the west side of Van Dyke between Fifteen Mile Road and Metropolitan Parkway. The adjacent land includes three non-conforming single family homes zoned M-1 to the north, Kuka Industries zoned M-1 and M-2 to the northwest, Chrysler Stamping zoned M-1 and M-2 to the south, and across Van Dyke to the east is Meijer on property zoned C-3. North of this request (and north of the three non-conforming residences) is the Wiegand Crushed Concrete facility. That property was rezoned to commercial a number of years ago to accommodate a hotel. That development never occurred and a new owner is currently processing plans for two commercial buildings intended for multi-tenant leasing purposes. The petitioner is seeking a conventional rezoning. Conventional rezoning is not tied to a specific site plan or use. Therefore, any use that is permitted in a C-3 zone could be established on the property as a result of a conventional rezoning. Mr. Mende stated there are two areas along Van Dyke as part of the Van Dyke construction project. The Van Dyke construction project has created two new commercially zoned corners at Fifteen Mile Road and also at Metropolitan Parkway. This is due to the elimination of the "jersey turns" at those intersections. This design change will be creating nearly 9 acres of new C-3 zoned property available for development, potentially resulting in up to 75,000 square feet of new retail space. As a result of the surrounding vacant properties along with the commercial development currently being reviewed and existing development patterns in the area, this rezoning change of the parcel is premature pending on the uses of those plans unknown at this time. The Planning Commission is the recommending body in this instance, it is a rezoning and will be forwarded on to the City Council which will review to either adopt or deny.

Mr. James Porritt, petitioner and with Select Commercial Assets located in Troy at 755 West Big Beaver. He stated that they inherited this through foreclosure. Select Commercial Assets is primarily a debt buyer and did meet with several brokerage companies to discuss what could be achievable in this area and there was a real consensus that trying to do something in light industrial successfully in this spot would highly be unlikely. Given the potential use, potential businesses were looked at that would become partners that would be able to go in as developers. Currently they have two hotel users and managers that would be able to go in as a developer and a single tenant restaurant use. Nothing has been submitted for site plan review yet depending on who they decide to go with and also the footprint of the proposed site.

Mr. Rowe asked Mr. Porritt to clarify the proposed uses.

Mr. Porritt stated the uses that they have been able to solicit are hotel use in combination with a pad site for retail with the retail type being a single tenant restaurant.

Mr. Rowe asked for any questions from the board.

Mr. Norgrove stated that it is his understanding that the petitioner had no further contact with the planning office after the application was submitted. He asked the petitioner if this is true.

Mr. Porritt stated he did call Mr. Mende but has not spoken to anyone else.

Mr. Norgrove stated that when he talked with Mr. Mende a few days ago, he had not spoken with the petitioner. He asked Mr. Mende if this is correct.

Mr. Mende stated the application was submitted as a conventional rezoning application and there was a representative from the company that he did speak to just yesterday that indicated that they were looking at a hotel user.

Mr. Norgrove stated the city is recommending denial due to the request being premature. He asked Mr. Mende why his office is recommending the denial.

Mr. Mende stated this is not the only reason. The city has a finite amount of industrial land and the industrial tax base is very important. Every rezoning request for industrial to commercial has to be scrutinized because of the industrial tax base being important. The petitioner is asking for a C-3 zoning district and there are no restrictions of what C-3 uses would be allowed. Because of the amount of C-3 commercial land that is

currently in review or sitting vacant with no development plans at this point, it is important that before rezoning any of the industrial corridor, we see what happens to the other existing C-3 properties.

Mr. Militello asked Mr. Porritt if they are planning on two hotels.

Mr. Porritt stated no that there are two separate hotel users, Marriot and Hampton, that are currently determining which would be more successful.

Mr. Rowe indicated that this is a conventional rezoning and whatever the use the petitioner is favoring cannot be considered by the commission.

Mr. Rowe asked for any other questions from the commission. None.

Mr. Rowe asked for any public participation.

Paul Smith, 41280 Utica Road, supports.

Richard Panczyk, 53129 Oak Road in Shelby Township, a property owner very close to the proposed property, supports.

Mr. Porritt, petitioner, added that in finding an industrial user, time has been spent in traveling and speaking to several different businesses and do have a pretty good understanding of what types of industrial use and size of parcel needed for these uses and they are very limited. Their interest in bringing these companies in is at a very high level.

Mr. Rowe asked for any other public participation, being none brought back to the commissioners.

Mr. Norgrove asked Mr. Mende that if this proposal is denied, how long before the petitioner can come back before the commission.

Mr. Mende stated that this is only a recommendation. This goes on to City Council which will vote to approve or deny. If the City Council happens to deny, the petitioner has to wait one year to reapply unless the boundaries of the property have changed or the condition surrounding of the rezoning have changed.

Mr. Norgrove asked the petitioner that after hearing the discussion and comments how he feels of his proposal.

Mr. Porritt stated the reason for requesting a conventional rezoning over a conditional is because it could change the way his company functions internally. Rather than submitting something prematurely that might not be developed and approved, we wanted a site that we know that we can develop in the fashion that we need to.

Mr. Militello stated to the petitioner that after hearing Mr. Norgrove and Mr. Mende's discussion regarding conditional rezoning that basically the petitioner would need to do already have a plan in place for this approval and does the petitioner feel comfortable doing so knowing that he already has two potential hotels.

Mr. Porritt stated the time frame for putting together site plans would take a while and also slow the progress with the discussions that they are having with those two parties at this time.

Mr. Kollmorgen asked the petitioner if they had considered buying the three non-conforming properties and is there enough property right now to build a hotel.

Mr. Porritt stated that would be at the request of the potential user and not for his company's purposes. He stated that there is enough property for what they call a limited service hotel.

Mr. Rowe asked for any other discussion from the commission. Being none, called for a motion.

Motion by Mr. Norgrove, supported by Mr. Kollmorgan, that the Planning Commission forward a recommendation to City Council to deny Case PZ15-1137, Select Commercial Assets, request to conventionally rezone property from M-1 (Light Industrial) to C-3 (General Business) for the following reasons:

1. The proposed rezoning would create an isolated zoning district unrelated to the predominant zoning that surrounds it, thus it would create a spot zone (the application of zoning to a specific parcel or parcels of land within a larger zoned area when the rezoning is usually at odds with a city's master plan and current zoning restrictions);
2. Rezoning to C-3 is contrary and inconsistent with the Master Land Use Plan of Sterling Heights;
3. There is sufficient undeveloped C-3 zoned property in the immediate area.

Mr. Rowe asked for any discussion on the motion.

Ayes: Norgrove, Kollmorgen, Kopp, Militello, Miller, Rowe
Nays: Reinowski
Absent: Ancona, Jaboro
Motion Carried.

CITIZEN PARTICIPATION

None

APPROVAL OF MINUTES:

Motion by Militello, supported by Norgrove, to approve the minutes of June 09, 2015.

Ayes: Militello, Norgrove, Reinowski, Kollmorgen, Kopp, Miller
Nays: None
Absent: Ancona, Jaboro
Abstained: Rowe
Motion Carried.

CORRESPONDENCE

Correspondence being the Michigan Planner Magazine, the handouts from the Special Approval Land Use submitted from the public participation and the Annual Conference application.

Mr. Militello asked Mr. Mende if they had the funds available to attend the Annual Conference.

Mr. Mende stated they do not.

OLD BUSINESS

None

NEW BUSINESS

Mr. Norgrove asked that since he was new to the commission, if he could call some of the commissioners to get input on any planning issues/questions.

Mr. Rowe stated feel free and also feel free to call Mr. Mende and Mr. Andrews.

MOTION TO ADJOURN

Motion by Militello, supported by Kopp, to adjourn.

Ayes: Militello, Kopp, Miller, Norgrove, Reinowski, Rowe, Kollmorgen
Nays: None
Absent: Ancona, Jaboro
Motion Carried.

The meeting adjourned at 11:40 P.M.

Respectfully Submitted,

Gerald A. Rowe, Chairman
Planning Commission