



**CITY OF WALLED LAKE
PLANNING COMMISSION
TUESDAY, JUNE 12, 2018**

The Meeting was called to order at 7:30 p.m.

ROLL CALL: Hecht, Maurer, Owsinek, Palmer, Whitt, Wolfson

ABSENT: Novak

OTHERS PRESENT: Consultant Planner Deem, City Attorney Vanerian, Recording Secretary Pesta

PC 06-01-18 MOTION TO EXCUSE COMMISSIONER NOVAK FROM TONIGHT'S MEETING

Motion by Owsinek, seconded by Wolfson, CARRIED UNANIMOUSLY: To excuse Commissioner Novak from tonight's meeting.

REQUESTS FOR AGENDA CHANGES:

APPROVAL OF MINUTES:

PC 06-02-18 APPROVAL OF THE MAY 8, 2018 PLANNING COMMISSION MEETING MINUTES

Motion by Wolfson, seconded by Owsinek, CARRIED UNANIMOUSLY: To approve the April 10, 2018 Planning Commission minutes.

COMMUNICATION: None

PC 06-03-18 MOTION TO ALLOW FOR SECOND PUBLIC DISCUSSION AFTER PRESENTATION BY SCHAFER DEVELOPMENT ALLOWING RESIDENTS TO SPEAK BEFORE AND AFTER THE DISCUSSION

Motion by Whitt, seconded by Owsinek, CARRIED UNANIMOUSLY: To allow for second public discussion after presentation by Schafer Development allowing residents to speak before and after the discussion.

AUDIENCE PARTICIPATION:

Gary Benedict 1556 Leon – asked what will happen to the drainage system because it does not work now. Mr. Benedict asked about privacy fences. Mr. Benedict said the other condo developments built in that area have three entrances and two of them come out onto Leon.

Brian Harris 1657 Oak Grove – said his concerns are the drainage and the traffic flow because people cut through from Maple through his sub and believes there will be more traffic. Mr. Harris asked if the developer is cutting down all the trees and would hate to see the older trees cut down, he enjoys the buffer zone now.

Mary Quall 717 Leon – said her property is 100 feet wide and 600 feet deep and two of her neighbors have similar property. Ms. Quall said it is a great green space for Walled Lake. Ms. Quall said she has seen deer and turkeys in her yard. Ms. Quall said one issue she was unaware this was not a public hearing for the PUD and does not understand why there is a meeting. Ms. Quall said there should be noticed within 15 days and said two of the meetings have not occurred. Ms. Quall said what is happening in Walled Lake is cool and loves living here. Ms. Quall said when you look at your own preamble on what you are to follow because PUD goes against the preamble. Ms. Quall said there is already a condo and three homes for elderly people with dementia along Leon who wonder. Ms. Quall said it is overtaxing our roads and energy system, wild life and need to define overcrowding.

Commissioner Whitt explained that the city has met the legal requirements for public notices and a Planning Commission vote does not approve the project because the City Council has the final vote on the project. Mr. Whitt explained if a planned unit development (PUD) motion passes, it goes to City Council and the process starts again with the City Council having the opportunity to put a developer agreement together addressing any concerns. Mr. Whitt further explained if Mr. Schafer, the developer, goes for straight zoning he would not need any special approvals. Mr. Whitt said through a PUD the City Council can have Mr. Schafer address the flooding issues.

Randy Champe 1275 Leon– said his concerns besides the wildlife which is part of his life to enjoy the deer, fox, owls and the eagles that come and fawns that have grown up in those woods in his backyard. Mr. Champe said people have the right to develop their own property, but the question is density. Mr. Champe said his father and grandfather subdivided all the property along Leon. Mr. Champe said the City does not need the density to further increase the damage to the roads or increase the water issues. Mr. Champe said you do not need 40 houses or need 40 postage stamps and it is not wanted. He said that property is the only green space left in this area. Mr. Champe said it provides land to breathe and provides oxygen.

Scott Toth 455 Sparks Lane- concern is the impact of the roads from the construction and the gravel trucks that would enter the property. Mr. Toth discussed the fire lane and said it be great to have sidewalks on Leon. Mr. Toth stated that the two new houses on Leon do not deserve access to Walled Lake and opined it is crowded already and he moved to Walled Lake for the lake and does not believe the others should have access.

Karen Kolke 179 Spring Park - opined that she was not notified of the meeting although she was present.

Laura Palazzo 1379 Omega – said she is new resident to the City and moved to the City because she thought this was a place to live with peace and nature. Ms. Palazzo said she noticed there are properties for sale in the area. Ms. Palazzo said the density is an issue and these are factory homes. She said the PUD proposal is a disappointment.

Michelle Henenhan 1545 Leon – said her husband is the liaison for the people off of Leon Road and said she did received the letter from the City. Commissioner Whitt said no matter what motions are made at tonight’s meeting there will be more discussions regarding this development proposal.

Jane Dabbish 1670 South Drive - asked if there are going to be homes torn down or are they building homes behind the property. Ms. Dabbish said she feels bad for the deer because they are always getting hit.

ATTORNEY’S REPORT: None

UNFINISHED BUSINESS:

**1. Discussion Decker Road PUD Concept
(Leon Road Properties)**

Mr. Schafer said out of the three meetings he has addressed several issues that have been addressed over the last couple months. Mr. Schafer explained there are five (5) properties that have been established for this proposal. He said three of the homes are in disrepair and it is his intent to take the three houses down and develop the new subdivision. Mr. Schafer said Pulte will be the builder of the houses. Mr. Schafer said originally had 44 homes and reduced to 36 homes and made the lots wider and the homes are larger in the development. Mr. Schafer said the buffers on the project, from the feedback received from the neighbors, the buffer is thirty-five (35) feet wide and his intention is to save the mature trees, there is a tree replacement required by the City and does not want to clear out the trees that are there and the buffer zones will not be graded. Mr. Schafer said the storm drains will take the water to a retention pond in the back of the property. Mr. Schafer said some catch basins will have pumps. Mr. Schafer said there is an acre of open land space and there were some residents that were in favor for custom housing on Leon but those homes would be separate from this development and not by Pulte but built by individuals. Mr. Schafer said the street is 27-foot-wide and anticipate having parking on one side of the street. Mr. Schafer said in case of an emergency there would be a 20-foot-wide asphalt emergency access drive and said it is not for traffic and bollards would be put in. He said there are sidewalks in the development.

Mr. Schafer said there is a 10-foot side yard setback between the homes. Mr. Schafer said the homes options are three or four bedrooms. Mr. Schafer said there will be landscaping and a park in the common area as well. Mr. Schafer discussed the traffic study and said there is half a car a minute in a two-hour period in the morning and evening on Leon Road. Mr. Schafer said it

results in thirty-eight (38) trips. Mr. Schafer said he looked at the side streets but believes the development will not exasperate the area and there is no access to Leon Road from the development. Mr. Schafer said Leon is a public road to get to Walled Lake. Mr. Schafer said a wetland engineer came out and there are no wetlands and will do the tree study and there are no DEQ permits that would be required for the development. Mr. Schafer discussed the drainage issues and said he went to the concerned area in the spring and saw what the residents were talking about. Mr. Schafer said he does not want to contribute to the existing issue and decided to reduce the density. He said instead of a detention pond there would be a retention pond. Mr. Schafer said the design has a two (2) one hundred (100) year back to back retention pond. Mr. Schafer said his design would be able to capture 40% that currently contributes to the current water problem. Mr. Schafer said instead of the water running on top of the surface it would be collected in the basin and percolate into the ground overtime. Mr. Schafer said the retention pond would pick up the 9.75 acres water and another 7.5 acres that is from the drainage issue district that will go in the catch basin. Mr. Schafer said the public benefit will help to alleviate the current flood issues and will keep as many trees as possible on the land and will work with the City to put the tree elsewhere if the trees need to go elsewhere. Mr. Schafer said the proposal would bring \$15 million taxable value to City of Walled Lake and new shoppers and business to the City. Mr. Schafer said the property owners want to sell their property and want their property closed so they can take care of their loved ones and make it work economically. Mr. Schafer said he has been developing since the eighties. Mr. Schafer said he knows he cannot make everyone happy but he is truly trying to work with the neighbors.

Vice Chairman Hecht asked if the driveways are line up with the other development across the street.

Mr. Schafer said he did line the driveways up so there are no turning conflicts.

Vice Chairman Hecht said Mr. Schafer addressed the lake access concern and he would relinquish those rights for those living off of Decker Road.

Mr. Schafer said he would relinquish any right to the lake. Mr. Schafer also said the properties would be professionally maintained along with the catch basins and yards.

Chairman Maurer asked about sidewalks on Decker Road.

Mr. Schafer said if the sidewalks are in the right of way they will be repaired if the sidewalks are damaged.

Commissioner Whitt said Mr. Schafer stated the pond can have a positive effect to improving the area that is facing current flooding issues. Mr. Whitt asked for Mr. Schafer to go into further detail.

Mr. Schafer said from the soil boring the soil is able to percolate and is perfect soil instead of blue clay that would hold the water. Mr. Schafer said the soil in the area would allow water to percolate in the ground. Mr. Schafer said there will be soil borings to ensure. He said the catch basin is taking 40% of the water that is currently flooding in the area down the street.

Commissioner Whitt said Mr. Schafer stated he would relinquish rights to the lake. Mr. Schafer said he would identify in the Master Deed as well as on the title.

Audience Participation:

Laura Palazzo 1379 Omega – said she is not an engineer and when trees are cut down there are roots and cement goes in so there will be extra water that needs to be accounted for during the development. She said the lower neighborhood floods a lot. Ms. Palazzo discussed the traffic study and opined it is doubling the traffic. Mr. Schafer said the traffic study is over a two-hour period. Ms. Palazzo said the survey is not perfect Mr. Schafer is only using whatever statistics work for his survey.

Mr. Schafer said no it is generally accepted traffic engineering. Mr. Schafer addressed Ms. Palazzo other concern and said he accounts for all paving during the re-surface and he has to be able to catch all that water and would be pushed towards the street and the catch basin. He said there is still the same amount of water now and it will all be captured.

Brian Harris 1576 Oak Grove - asked about the buffer zone that won't be graded.

Mr. Schafer said with whatever water that is there currently will be picked up from the catch basin. Mr. Schafer said his intention is not to touch the buffer zone that is already existing and to leave it as it is.

Scott Toth 455 Parks - asked with the retention will there be overflow catch basin with overflow protection. Mr. Schafer said yes. Scott Toth said he is happy to hear about the overflow protection. Mr. Toth asked if the elevation for the development will be like East Bay. Mr. Schafer said the only elevation would be three feet with the basement in, just the homes. Mr. Toth said his property is 20% lower. Mr. Schafer said his work will be heck of a lot better than what is going on in that area currently.

Chairman Maurer asked how the city holds Mr. Schafer accountable for his engineering drawings.

Commissioner Whitt said Mr. Schafer is providing his rendition and represented a couple things that advance his cause. Mr. Whitt opined that a retention pond is an opportunity to fix the issue that is in the current area as opposed to straight zoning which does not provide the same opportunity to fix the flooding issue. Mr. Whitt explained that the boards and commission have a duty to continue the review process for this proposed development. Mr. Whitt opined that the city has a duty to allow the property owners to develop their property in some way.

Mr. Schafer said there is criteria what mature trees are and what will be removed will be replaced one to one.

Sylvia Toth 455 Sparks – said the results of the traffic study she does not get it and cannot wrap her head around the numbers. She said the numbers seem low. Ms. Toth said to make sure to review the plan thoroughly.

A gentleman spoke who lives on Leon said there will be extra drainage and wants to make sure there is a good privacy fence.

Randy Champe 1275 Leon – said the density is too much and he cannot begin to discuss the wild life. Mr. Champe said the land that was divided years prior probably should not have been divided but now the red foxes will have nowhere to go. Mr. Champe said for Mr. Schafer to go the boonies.

PC 06-04-18 MOTION TO CLOSE AUDIENCE PARTICIPTION

Motion by Whitt, seconded by Palmer, CARRIED UNANIMOUSLY: To close audience participation.

Discussion:

Commissioner Whitt said Mr. Schafer addressed many of the residents' concerns and knows the commission cannot make everyone happy. Mr. Whitt opined that people have a right to sell their property, yet no one bought the property to develop a park. Mr. Whitt explained the property can be developed without a developer agreement with just straight zoning. Mr. Whitt said City Council makes the final call with a PUD.

Commissioner Owsinek said one gentleman brought up Decker Road may be damaged during the construction and if it gets damaged what would the repair process be.

Commissioner Whitt said that can all be addressed in a Planned Unit Development agreement if the proposal moves forward to City Council. Mr. Whitt explained the city needs protection and a PUD agreement would do that. Mr. Whitt said Walled Lake is a community people want to live. Mr. Whitt opined that those houses will sell quickly but his fear is this proposed PUD does not go through and a new developer comes in wanting to do straight zoning then the city loses a chance to protect the residents.

Vice Chairman Hecht said when it first came for discussion he was not a fan of the proposal but the rights to develop your property is a right and this is an opportunity to really fix the current drainage issue. Mr. Hecht opined that the alternative is scary and is not in favor to letting that happen to the community.

Commissioner Wolfson stated with the PUD it is better to have control than letting straight zoning occur.

Commissioner Palmer said PUDs give a lot of control and is the best way to go and will solve a lot of problems and it is prime property. Mr. Palmer said to at least give Mr. Schafer a chance to move forward to city council.

Commissioner Owsinek said the city already has an Area H that the residents have been privy to and have held a public meeting to mitigate that drainage issue. Mr. Owsinek said with Mr. Schafer's design will help and duck tale together with the issues in Area H.

Commissioner Whitt stated that it sounded like the developer is willing to work with the city and if he is not then the city council will say no to his proposal. Mr. Whitt explained that the city council had rejected a PUD proposal before and could do it again.

Chairman Maurer said everyone loves Walled Lake and people want to move to our community.

City Attorney Vanerian said city council would refer the PUD agreement to me. Mr. Vanerian said the ordinance requires the planning commission would make a recommendation that the PUD be denied or approved or approved subject to conditions. Mr. Vanerian said it is just a recommendation and once it gets to city council, council can follow planning commission recommendation or chart their own course. Mr. Vanerian explained the prime function is to do a study and get input from the public and further fine tune to identify those issues and the planning commission has done that.

PC 06-05-18 MOTION TO MAKE A RECOMMENDATION FOR PRELIMINARY APPROVAL AND TO FORWARD TO THE CITY COUNCIL THE DECKER ROAD PUD CONCEPT PLAN AND TO NEGOTIATE A PUD AGREEMENT

Motion by Whitt, seconded by Palmer, UNANIMOUSLY CARRIED: To recommend preliminary approval and to forward to the city council the Decker Road PUD concept plan and to negotiate a PUD agreement.

NEW BUSINESS:

1. Public Hearing

C-337-18 Amendment to Marijuana Facilities Zoning
Ordinance Appeal Process

Open Public Hearing 9:21 p.m.

City Attorney Vanerian said it is an amendment to the city's ordinance that fine tunes what council already adopted and meshes with the state process and brings it into line. Mr. Vanerian said this amendment brings it in line with the State process and it changes the appeal if someone were denied and challenged the denial, it would go to ZBA, the amendment would instead send it to City Council. Mr. Vanerian said City Council approved first reading and it is before the Planning Commission for the required public hearing.

Commissioner Whitt said the purpose of the change lies with the wisdom of city council because they have the option to making a change and it is a new concept and an issue that is interesting to many people and the majority adopted the position that the council should be the final appeal

instead of putting it on an unelected board. Mr. Whitt said it should be in the hands of the elected city council not those that have been elected to a board by the mayor.

Commissioner Palmer said there needs to be control and city council should be in control in this matter.

Vice Chairman Hecht said this is the only appeal that would go before the city council.

City Attorney Vanerian said the current ordinance would be the ZBA and it would be the final decision. Mr. Vanerian said it is changing the process for this application everything else would stay the same.

Commissioner Wolfson asked what kind of appeals the ZBA approve.

Commissioner Owsinek said the ZBA address setbacks, lot splits but because medical marijuana is a horse of a different color it is better to have elected officials look at it then unelected board members that involve medical marijuana. Mr. Owsinek said city council are elected by the people and have been involved with the issue from the beginning.

Vice Chairman Hecht said he is concerned with changing the protocol for one issue.

Commissioner Owsinek said this is a politically charged issue and the State is still working out issues this ordinance can always be rescinded at a future date but this should be handled by the elected officials.

City Attorney Vanerian said this is not a typical zoning appeal that the board would review. Mr. Vanerian said this is a different type of appeal and variance for the board and may warrant a different process. Mr. Vanerian explained each issue and each case turn on its own merits.

Commissioner Palmer said it is important for city council to handle it and later it can be changed, and it is a different type of issue. Mr. Palmer said it is more than a variance approval.

- C-337-18 Amendment to Marijuana Facilities Zoning

Audience Participation:

Scott Toth 455 Sparks said if someone does not get approved then the applicant get to go with the City Council, who are best familiar with the issue. Mr. Toth opined some city council members are connected with public and it is going to become a buddy system. Mr. Toth said the city council knows the businesses and has connections.

Vice Chairman Hecht said majority of city council actually has tremendous experience with the topic and with the other Boards and Commissions and he is on the ZBA and has less experience than the City Council and his hesitation is not having enough experience to make decision.

Susan Helke 1361 Shaw said she has not heard any reason for this to be considered. Ms. Helke said Mr. Hecht is selling himself short. Ms. Helke said her question is why and why would the commission take the consideration of this one issue and kick it over to City Council. Ms. Helke said there is a vast amount of money tied in with this issue and said like the movies say follow the money. Ms. Helke said follow the money, so why has no one on the ZBA has encountered a new issue before. Ms. Helke said the Board should be asking themselves why.

PC 06-06-18 MOTION TO CLOSE PUBLIC HEARING

Motion by Whitt, seconded by Owsinek, UNANIMOUSLY CARRIED: To close public hearing.

Closed Public Hearing 9:44 p.m.

Discussion:

Commissioner Whitt stated that for the former council member Helke to suggest that there is some impropriety, or something is inappropriate by stating “follow the money” is consistent with her whole history. Susan Helke said yes, it is. Commissioner Whitt said Helke’s disgrace is what we have to live with. Mr. Whitt opined that this city council is as honest as any he has worked for. Mr. Whitt explained that Ms. Helke implying impropriety by stating “follow the money” is the kind of activity she was involved in for two years and why she was removed from the City Council for disgraceful conduct.

PC 06-07-18 MOTION TO RECOMMEND APPROVAL FOR AMENDMENT CHAPTER 18 “BUSINESSES”, OF THE CITY OF WALLED LAKE CODE OF ORDINANCES BY AMENDING ARTICLE XI “MEDICAL MARIJUANA FACILITIES” SECTION 18-356(A) TO INSERT THE TOTAL NUMBER AND DISTRICT PLACEMENT OF MARIJUANA FACILITIES AS PREVIOUSLY APPROVED BY CITY COUNCIL INCLUDE ZBA AS 1 LEVEL OF APPROVAL

Motion by Whitt, seconded by, UNANIMOUSLY CARRIED: To recommend approval

Motion withdrew

PC 06-08-18 MOTION TO RECOMMEND APPROVAL FOR AMENDMENT CHAPTER 18 “BUSINESSES”, OF THE CITY OF WALLED LAKE CODE OF ORDINANCES BY AMENDING ARTICLE XI “MEDICAL MARIJUANA FACILITIES” SECTION 18-356(A) TO INSERT THE TOTAL NUMBER AND DISTRICT PLACEMENT OF MARIJUANA FACILITIES AS PREVIOUSLY APPROVED BY CITY COUNCIL AFTER TWO YEARS GO BACK TO ZBA

Motion by Maurer, seconded by Hecht, UNANIMOUSLY CARRIED: To recommend approval for amendment Chapter 18 “Businesses”, of the City of Walled Lake Code of Ordinances by amending article xi “Medical Marijuana Facilities” section 18-356(a) to insert the total number and district placement of marijuana facilities as previously approved by city council after two years go back to ZBA.

2. Public Hearing

C-338-18 Amendment to Zoning Ordinance Section 21.10
Mechanical Units

Open Public Hearing 9:56 p.m.

City Attorney Vanerian said the amendment is to change the location of where mechanical unit can be placed to the side yard. Mr. Vanerian said ZBA recommended the ordinance to be amended to allow flexibility without requiring the process for a variance.

Commissioner Hecht said ZBA did send the amendment to City Council, there have been over 6 cases within the last year.

Audience Participation:

Bob Robertson asked if it would be required for the resident to screen the side yard.

Commissioner Owsinek said a wood or masonry fence or a natural vegetative wall is required for screening.

PC 06-09-18 MOTION TO CLOSE PUBLIC HEARING

Motion by Owsinek, seconded by Palmer, UNANIMOUSLY CARRIED: To close public hearing.

Closed Public Hearing: 10:01 p.m.

Discussion:

Vice Chairman Hecht said the plans have to be approved by the city and permits have to be pulled for mechanical units to be relocated.

**PC 06-10-18 MOTION TO RECOMMEND APPROVAL FOR AMENDMENT
TO CHAPTER 51, “ZONING”, IF TITLE V, “ZONING AND
PLANNING”, THE CITY OF WALLED LAKE ZONING
ORDINANCE ARTICLE 21.00 “GENERAL PROVISIONS”,
SECTION 21.10(A)(3) “NUISANCES” TO PROVIDE FOR
LOCATION OF MECHANICAL UNITS IN SIDE YARDS IN
RESIDENTIAL DISTRICTS**

Motion by Hecht, seconded by Wolfson, UNANIMOUSLY CARRIED: To recommend approval for amendment to Chapter 51, "Zoning", if title V, "Zoning and Planning", the City of Walled Lake zoning ordinance Article 21.00 "General Provisions", section 21.10(A)(3) "Nuisances" to provide for location of mechanical units in side yards in residential districts.

ADMINISTRATIVE REPORT:

1. Code Enforcement Report – April

PC 06-11-18 TO RECEIVE AND FILE THE MONTHLY CODE ENFORCEMENT REPORT

Motion by Owsinek, seconded by Hecht, UNANIMOUSLY CARRIED: To receive and file the monthly code enforcement report.

COMMISSIONERS COMMENTS: None

PC 06-12-18 ADJOURNMENT

Motion by Novak, seconded by Palmer, CARRIED UNANIMOUSLY: To adjourn the meeting at 10:05 p.m.

Chelsea Pesta
Recording Secretary

Michael Maurer
Chairman