

**PLANNING COMMISSION SPECIAL MEETING
MINUTES OF MEETING JULY 28, 2008**

CALL TO ORDER:

Chairman called the meeting to order at 6:30 p.m.

PLANNING COMMISSION MEMBERS PRESENT:

Pat Soller, Alan Seymour, Pete Griffin, Ken Kraus. Don Bergwall, Roger Yoder and John Cunningham excused.

OTHERS PRESENT:

Dave Cook, Brad Bills, Chuck Day, Catherine Cunningham, Gary Schmidt, Greg DeLong, and Tammy Penhorwood- Secretary.

APPROVAL OF MINUTES:

Planning Commission Meeting – July 28, 2008- Mr. Soller stated on page four, preserved needs to be changed to perceived. Mr. Seymour made a motion to approve the minutes with the minor change. Voice vote was unanimous. Motion passed.

ADMINISTRATION COMMENTS:

Mr. DeLong stated in front of the commission there are three memos. One is for outstanding issues that have not been addressed and need to be before we move this forward to city council. Another memo is regarding revisions. These are revisions which in many cases have been asked repeatedly to be fixed and have yet to be fixed. It looks worse than what it is. A lot of it is just combining the uses. The last memo is the use table conflicts. This is where we are running into issues where the use is on both the permitted list and the prohibited list and we need these things cleaned up. I apologize that these memos came out late today, but we have been swamped and we are doing the very best we can to keep up. Staff has worked diligently in reviewing and re-reviewing each submission and it takes time. You also received the memo from Mr. Kraus which has a few comments. When I did my list, if Mr. Kraus addressed the issue already, I didn't readdress the issue.

Mr. Kraus stated Mr. DeLong raised an issue that I feel needs addressed.

That is for whatever reason we've had to go back too many times for minor items that never seem to get corrected. I don't know if it is because there are too many hands on this on behalf of the applicant or what, but with things being listed on both the permitted and conditional and/or prohibited lists, this just shouldn't be happening. These things have caused us to do a lot more than was necessary and I'm not happy about that. There are a couple of things that I've added to my list which we will get to, but in area B2, there has been something added that I don't know where it came from. It is things like that that delay the process and causes us to have to look and relook and it's getting old.

Mr. Kraus stated I still plan on a vote tonight. Assuming that this is approved with conditions to move on, it will not be forwarded to city council until all changes are clean. So on my list for example; we expect all of the changes we discuss here tonight to be made. If those changes are not made it will go back to you until it is right. It will not go to city council until it is a clean book. Mr. DeLong, Mrs. Penhorwood and I will review the documents to make sure the changes are complete.

CITIZEN COMMENTS: None

OLD BUSINESS:

Recommendation of Approval of Preliminary Development Plan- Cook's Pointe (formally Cook's Crossing)- located north of US 33 between SR 4 and SR 31- filed by David Cook- tabled from 6-24-08.

Mr. Kraus stated for starters on my list the only item that may need some discussion is on page GDS-4. I don't understand why the phrase "on premise sign" is in here and in bold. Is there something that we should know or should it be deleted?

Mrs. Cunningham stated it has been in bold for a while. What happened is it went through a couple of changes because the sign as I recall, the drafting of it, was that it would be associated with this development. The tenants on this sign were supposed to be tenants in this development. It was first described as an on premise development sign. But then we tried to make it accurate in regards to the nomenclature used to describe the three types of sign, one was called a development id sign so it then confused what this type of sign should be called.

Mr. Kraus stated to make this simple then can the words “on premise” be deleted. It would state one freeway free standing sign would be permitted. The rest of the sentence states it is to identify the development and the tenants within. Delete the words “on premise”.

Mrs. Cunningham stated in GDS-5, I don't recall conversation ever about it being measured from sidewalk grade. I always thought the discussion was from street grade.

Mr. Kraus stated he doesn't have a problem changing sidewalk to street.

Mr. Kraus stated he did add a couple of things to the list that is not on the printed list. On page B2-5 under 2-05a, I don't recall having a discussion allowing an exception for freestanding business id signs for service stations.

Mr. Schmidt stated he doesn't take very good notes but I remember someone on this commission saying that it is expected that a gas station, a gas station has to advertise their prices, it a law.

Mr. Kraus stated that is fine but not on SR 4. They don't need a business id sign that doesn't necessarily contain the prices on SR 4. Walmart has their gas prices on their canopy and it is visible from over ¼ mile away.

Mrs. Cunningham the concern was, you can see that in the B2 area the fuel service station signage language was added, because fuel service station were permitted in this area we were trying to have a uniform sign. So I tried to go through and if a gas station was permitted that they were permitted to have their gas station sign. If you recall when you saw the, part of the concern also I heard from Mr. Schmidt and Mr. Smallwood, they were talking about the fuel station signs and said with Meijer we would be permitted to have a fuel service station sign with prices and above the name of the business. The way we had written the language trying to describe that sign said that it would be in the style of the business id sign in part. So the concern was when you say that you are not approving the fuel service station signs now because they now have business id sign cross reference.

Mr. Kraus stated his recommendation is in the B2 area delete “except for gasoline service stations” from the language. They can put them on the

entrance roads or they can put the prices up on the canopy. Free standing business are not to be on SR 4 or SR 31 for anybody.

Mrs. Cunningham stated here is the question, here is Meijer's question.

Mr. Kraus stated Meijer is not in B2.

Mrs. Cunningham stated you are going to have the same issue in C1. It is the uniform issue. If you have a service station that is in the B2 area or the C1 area, are you telling me they can not put a monument sign with the fuel prices on it.

Mr. Kraus stated not on the state route.

Mr. Seymour stated the only thing that I recalled was that the intention was to have a separate entrance to the gas station in C1 and at that location there would be a fuel sign and that was relative to a number of trade offs as well.

Mr. Schmidt stated we took the Meijer sign package out of the submittal, but if you remember, they were proposing that and the commission thought that was acceptable.

Mr. Kraus stated these are two separate issues. First of all does anyone have a problem with removing the phrase "except for gas service stations" in B2.

Mrs. Cunningham asked then where are you going to put the gas price signs. On the back entrance service road?

Mr. Kraus stated they can either put it on the corner or on the canopy. Like a lot of businesses do. Is the commission okay with an id sign with prices for both B2 and C1?

Mr. Seymour stated he has had focus on the sign on SR 31 up to this point. This sign I think we are all acceptable to at this point. The remaining question is for SR 4.

Mr. DeLong stated he wants to point out at the last meeting the commission did prohibit id signs on the state routes, even gas signs. If you don't then you will be giving certain tenants special privileges.

Mr. Kraus stated his personal preference is no signs except for the commercial id signs on SR 4 and SR 31.

Mr. Soller stated I think the idea of having the gas station sign it that it would help direct people into this area instead of going into the Clark Addition by mistake.

Mr. Griffin stated I think we are trying to avoid clutter on SR 4 and SR 31 and if we go to additional signs then we are allowing clutter. I see no reason why we would want these signs on the state routes.

Mr. Seymour stated I didn't recall gas service signs on SR 4.

Mr. Griffin stated it has been part of our whole discussion to have SR 4 and SR 31 as clean as we can and force the signage on to the side roads.

Mrs. Cunningham stated the gas stations have to post their prices. For a gas station from a business perspective they want to post their prices on the street where the traffic is. If the problem is that you don't want them to identify the name of the station on top of the gas price sign, I don't remember any discussion ever that you couldn't have your fuel prices posted on a sign on SR 4 and SR 31. The discussion we had previously was in regards to business id signs. The monument id signs we don't want to see one right after another. I don't recall any discussion that you don't want us to be able to post the prices on the major thoroughfares from which the traffic will be able to see the prices. When we discussed eliminating the signs it was always the business id signs.

Mr. Seymour stated no sign on SR 4. What we talked about before was no monument sign or any type of thing on SR 4 for any facility, and that would include gas prices. If you need to identify prices visible from SR 4 then it would need to be on the facility. In C1 we've made the exception already. On SR 31 we have already established that a station id sign is acceptable. Am I right and saying that.

Mr. Griffin stated there have been so many meetings and that has been a while back it is hard to recall the exact conversation.

Mrs. Penhorwood stated it was specifically related to the C1 parcel because it was regarding Meijer directly. Mr. Smallwood and the commission

compromised that Meijer would not have a separate freestanding id sign if they could have it on the top of the gas price sign facing SR 31. It was specifically regarding SR 31.

Mr. Dave Cook stated he was under the understanding that the commission was going to treat SR 4 gas station just like you would the Meijer gas station. Meijer shouldn't have favoritism.

Mr. Kraus stated the commission needs to make a decision. Is this only applicable to B2 and C1 or just C1 or what.

Mr. Seymour stated that station facility on SR 4 in a B2 location would be extremely visible from SR 4 in and of it's self.

Mrs. Cunningham stated it depends on what goes next to it. Today if there is just one station there, then it would be.

Mr. Soller stated from a safety standpoint it would be easier for drivers to find the price of the gas if it is on a monument sign.

Mr. Kraus stated for simplicity's sake we'll leave it in in both cases. I did have one other item on my list and that is in all areas that front SR 4 and SR 31 where it says that business id signs are not permitted, you need to add the word freestanding before business id signs. If you don't you would not be allowed to have a wall id sign facing the state routes either and that is not our intent.

Mrs. Cunningham stated that a clarification too could be to reference to the exhibit.

Mrs. Cunningham stated the discussion about removing smooth concrete panels from the building materials. It is my understanding that if smooth is deleted in the fashion as it is proposed that the user can use the smooth concrete panels on the building, but it just can't be used as the 40%. Is that correct?

Mr. Kraus stated the Design Review Board (DRB) will probably not allow smooth tilt up panels period.

Mrs. Cunningham stated Meijer has a huge problem with that. I believe what the commission is saying is that can't be part of the 40%. What Meijer says is if you are telling them that they can't use the smooth concrete panel at all, then we have a problem. It was never discussed, that was never part of the deal. It was discussed in the A district but never in the C districts.

Mr. Kraus stated it was also stated at that time that it would apply to all districts.

Mrs. Cunningham stated the designs that they proposed were smooth concrete panels where they put the wording of the signs. According to them that is a giant issue because putting the 40% everywhere else already puts their cost up significantly.

Mr. Kraus stated they have decisions to make as we do and we don't like smooth concrete panels. If they want to put some kind of stucco finish on there then fine.

Mrs. Cunningham stated there is no issue with removing it if it is only applying to the 40%.

Mr. Kraus stated it doesn't say they can't use it on the other 60% of the building. That is a battle they will have to face at DRB.

Mrs. Cunningham stated another question I had was I wasn't sure if I'm miss reading or you really meant what is here. On the part where you want added "provided the rear of the building is not visible from a public way", do you mean not or is.

Mr. Kraus stated if it is visible from a public way it will need to look like the rest of the building. It needs to be added to the end of the paragraph. The word "shall" in that last sentence should also be changed to "may".

Mr. Kraus stated another item not on my list, just prior to sub paragraph .01 (a) in each of the sub areas, there should be a phrase or sentence that states "any use listed in more than one category shall be governed by the most restrictive category. This means if you have something listed in both permitted and prohibited, then it would be prohibited. There are too many things that are not cleaned up.

Mr. DeLong stated if you look at the memo that was passed out today titled Use Table Conflicts, you'll see many instances where this has occurred.

Mrs. Cunningham has stated for example you are saying that in B2 gas stations are permitted under 554, and that is the only 55 classification that you are allowing in the B2.

Mr. Seymour stated yes, but listed under prohibited it states anything under 55 is prohibited.

Mrs. Cunningham stated yes, except for 554 which is on the permitted list.

Mr. Kraus stated on the prohibited list following 55 it needs to say except 554.

Mrs. Cunningham stated I think the way it is written is fine.

Mr. Kraus stated he understands but that is not the way the code is interpreted and used.

Mrs. Cunningham stated then a general phrase at the beginning should be sufficient. To go through now, this is not a change that was never discussed before today. To go through now and do what you are talking about, you are going to be going through this forever.

Mr. Seymour stated if we say something that says the permitted uses supersede the prohibited uses, would that work?

Mrs. Cunningham stated then we need to put general language in there to cover this. As lawyers we see this all the time.

Mrs. Kraus state that doesn't change the fact that the people using this on a daily basis are not lawyers and I know how they are going to look at it. I know this has been brought up at at least two and probably more previous meetings that anything that already falls under the broad category doesn't need to be listed separately and should be removed. The last three times I've gone through the book I've found things that are in the permitted list and the same item on the prohibited list. So if it means that you have to go back through and double check the list, I'm sorry but I'm not going to do it for you. But 55 prohibited wipes out the entire 55 category unless it says except

554. That is why the note that the most restrictive shall apply needs to be added.

Mr. DeLong stated Mrs. Penhorwood spent time and went through these today. The list is here in the memo. We hope we didn't miss anything but all they have to do is incorporate the list. We've done the work for them.

Additional discussion held on this topic.

Mr. Kraus stated there needs to be language added in addition to what I specified earlier that states if something is listed as permitted it is permitted even if the broader category is prohibited.

Mr. Kraus asked if there was any reason his memo could not be adopted as a whole and the changes to be made. Commission agreed.

Mr. Kraus stated the next memo is from Mr. DeLong titled Outstanding Issues. The first item is GDS-5.

Mrs. Cunningham stated GDS-5 (d) was added after I talked to Mr. Schmidt. It was my understanding that there were discussions about the sliding scale and what percentage of what sign gets attributed to what business and if you have a multi tenant sign it doesn't count against any particular business even if it is in their lot. I thought there were discussions about that and that is why it is in there.

Mr. DeLong stated this section is referencing the wall sign. That is why it doesn't make sense. The square footage was added that we asked for, so everything was okay.

Mr. Schmidt stated he misunderstood the commission. I thought we were talking about treating it separate from the regular sub area signage.

Mrs. Penhorwood stated there is not a total subarea signage limitation, so this doesn't make sense.

Commission agreed that paragraph should come out.

Mr. Kraus stated on the same page under 3 (a), talking about commercial development signs. At the end of the first line the “three” should be changed to “two”.

Mr. Kraus stated the next item is in B1.01.

Mrs. Cunningham stated this came from Mr. Kraus’ notes given to Mr. Brahm at the last meeting. It was on Mr. Kraus’ memo page 3.

Mr. Kraus stated it is the entire category in the SIC code book.

Mr. DeLong stated in B3.01, there is a question about have Public and Quasi Public uses at the pond area. Mrs. Penhorwood brought this up to me today and it would allow it to be sold off and put in a school or church or some other things.

Mr. Kraus stated quasi public should be taken out. Commission agreed.

Mr. DeLong stated the last item is he just wants to make sure the commission is okay with allowing 55 in the D1 sub area.

Mr. Kraus stated as he recalls the conversation it is okay for D1. Commission agreed.

Mr. Kraus asked if there was a need to go through the use table conflicts list or is it covered by what we talked about earlier on the language issue.

Mr. Soller stated he thinks it will be covered. I assume you’ll take this list and make the changes.

Mrs. Cunningham stated there shouldn’t be any changes made unless there are duplications. I guess I’m not understanding this. I thought our last discussion was that we were going to add the language and not go back and make the changes by adding exceptions beside the codes.

Mr. Kraus stated even the changes with exceptions need to be made. Even though they are expressly prohibited, because I know how the code will be looked at, it needs to be listed.

Mr. Seymour stated there is no reason why you can't put in the parenthesis and what the exceptions are on the permitted list.

Mr. Kraus stated make the changes.

Mr. Kraus stated on the revision memo, it looks pretty straight forward. Is there anything else we need to talk about on this project.

Mrs. Cunningham stated for the record I want to express my disappointment in not having the opportunity to receive or review the staff memos before the meeting tonight. A lot of the issues I think we could resolve in advance of the meeting. We spend a lot of time money and effort trying to get this right and it puts at an extreme disadvantage to spend months on this and then to get memos at the last minute. We'll do what we can to make the changes even though I don't know that we agree with all of them. I am at a position now where we have a client that needs to move forward.

Mr. Kraus stated he would also state for the record that I am disappointed that the planning commission and staff had to do as much work as they did. But be that as it may.

Mr. Seymour stated in E1-3 the landscape buffer type D, in our discussion on that the 4th sentence up in paragraph 3, a six foot fence may be installed. In the type D buffer we said no fence would be required, in the event a project occurs DRB would be the judge of that.

Mr. Soller stated he thought it was reviewed with the property owner to the north and they wanted the flexibility.

Mrs. Penhorwood stated she thinks what Mr. Seymour is trying to express is that when Mr. Fitzgerald was here he did not want the option of mounding or fencing, he wanted the option of a fence being added to the mounding and landscaping.

Mr. Seymour stated yes, at the time of the development.

Comments made from the audience that were inaudible.

Mr. Seymour stated it was therefore left to the option of DRB relative to the development that would occur.

Comments made from the audience that were inaudible.

Mr. Seymour stated the resolve was to eliminate a fence as an option. Mr. Fitzgerald did not want it as an alternative.

Mrs. Cunningham stated he wanted both. He wanted both fencing and landscaping and we were not able to reach an agreement on that. We said to him that we would not do both.

Mr. Soller stated his understanding is that the language should give the DRB power to require both depending on what type of facility is built. It would be a decision made by them.

Mr. Kraus stated that language stays in.

Mr. Seymour stated for the record I disagree. My interpretation of what is said there is that it should read like the others where a fence is not required that it would be determined by the DRB if in addition a fence would be required. Landscaping would be a given.

Minutes of the last meeting were reviewed.

Mr. Kraus stated "As an alternative" needs to be changed to "In addition" on page E1-3.

Mr. Kraus asked if there was any reason to not move this on with a clear understanding that assuming there is a vote tonight and it's approved that nothing goes to council until the changes are made as outlined in the memos.

Commission agreed.

Mr. Seymour stated the condition would be that the changes to be made would be reviewed by the chairman of the planning commission and city administration.

Mr. Seymour made a motion to make a recommendation to city council of approval of the preliminary development plan for Cooks Point with the condition that the issues that are captured in the minutes tonight in

conjunction with the 4 memos presented tonight be reviewed and approved by the planning commission chairman and city administration.

Mrs. Cunningham stated I would direct your attention to the code and it states that before making your recommendation planning commission shall find that the information in that application complies with the code and then lists 10 different criteria. I don't know if you need to make specific findings or if it needs to be part of the motion.

Mr. Kraus stated normally it is not. It will be addressed when presenting this to city council.

Mr. Seymour Yes Mr. Griffin Yes Mr. Soller Yes
Mr. Kraus No- He stated as a matter of clarification I am not happy with the sign package and I am not happy with the way we delineated the different usages in the different areas along with some of Mr. Bergwall's comments.

Motion passed

NEW BUSINESS: None

DISCUSSION ITEMS:

To Do List Prioritization

Mr. Kraus asked the commission if they wanted to get into the prioritization tonight or wait until the next meeting.

Commission decided to wait until the regular meeting

INDIVIDUAL COMMISSIONERS COMMENTS:

Alan Seymour – He stated this has been a huge learning experience.

Pat Soller- He stated he would like to thank the people involved with the Cooks Point project, I think it will be a sustained, dynamic and stable environment for the City of Marysville.

Ken Kraus- He stated on the discussion regarding the Ohio State property rezoning, in meeting with them what we've come up with is to change the GOV district purpose to cover all government uses and add some limited

office. Some of the uses we've discussed are the 87 SIC category, 82 and all of 07, except for 0782 and 0783. This is the direction that it seems to be going. Does anyone have any objections to this?

Mr. Griffin stated he feels the commission had suggested to change the definition of the district and we'd be there and we've done that.

Mr. Kraus stated what this may mean is that city council may see the wisdom in disapproving out recommendation knowing that there are changes coming through.

Mr. Soller stated he would like to see a copy of what the changes are to be so he can check and make sure the other areas that are going to be or have been changed to GOV work with the new information.

Mr. Kraus stated at the September meeting I see these things being on the agenda; section 1144, 1129.13, 1135.19, 1137.23, and private swimming pool regulations. All these items will be sent out with the packet.

Pete Griffin- None

ADJOURNMENT:

Meeting was adjourned at 8:18 p.m.