

THE REGULAR MEETING OF THE BERKLEY CITY PLANNING COMMISSION WAS CALLED TO ORDER AT 7:00 PM, AUGUST 27, 2019 AT CITY HALL BY VICE CHAIR MARTIN SMITH.

The minutes from this meeting are in summary form capturing the actions taken on each agenda item. To view the meeting discussions in their entirety, this meeting is broadcasted on the city's government access channel, WBRK, every day at 9AM and 9PM. The video can also be seen, on-demand, on the city's YouTube channel: <https://www.youtube.com/user/cityofberkeley>.

PRESENT: Martin Smith Jeffrey Campbell Mark Richardson
 Lisa Kempner Greg Patterson Matt Trotto
 Tim Murad Michele Buckler

ABSENT: Kristen Kapelanski

ALSO PRESENT: Matthew Baumgarten, City Manager
 Erin Schlutow, Community Development Director
 Ross Gavin, City Council Liaison
 Several members of the public

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APPROVAL OF AGENDA

It was moved by Commissioner Trotto to approve the Agenda supported by Commissioner Campbell.

AYES: Buckler, Murad, Richardson, Campbell, Kempner, Patterson, Trotto, Smith

NAYS: None

ABSENT: Kapelanski

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APPROVAL OF MINUTES

It was moved by Commissioner Buckler to approve the minutes from July 23, 2019 and supported by Commissioner Kempner.

AYES: Buckler, Murad, Richardson, Campbell, Kempner, Patterson, Trotto, Smith

NAYS: None

ABSENT: Kapelanski

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COMMUNICATIONS

There were three items provided to the Planning Commission. There were two letters addressed to the Planning Commission related to the proposed conditional rezoning at 3339 Cummings Ave. and one email pertaining to the project at 3818 Twelve Mile Rd.

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CITIZEN COMMENTS

None.

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1. **SITE PLAN REVIEW SP-05-19.** Tim & Nicolette Yanke are requesting site plan approval for a façade change at 3818 Twelve Mile Road, between Prairie and Bacon. Applicant Joe Novitsky presented the intent to update the façade and maintain the existing footprint. Property owner Tim Yanke is a global artist and interested in the property for an art studio. The studio will be for personal use, as well as bringing in artists around the world for collaboration.

Community Development Director Schlutow summarized her review memo. The application had been reviewed by the Planning Commission at the July 23, 2019 meeting, wherein the Commission postponed their decision in order for the property owner and applicant to address design and parking standards and make revisions to the plans. The property owner and the applicant revised the site plan to address the concerns of the Planning Commission.

Property owner Tim Yanke noted that they had incorporated the changes that the Planning Commission had requested.

Commissioner Buckler asked about classes or events that the applicant had noted as a possibility at the property. Property owner Tim Yanke stated that the classes would be for children who would be transported by bus.

Commissioner Richardson asked about exterior lighting at the rear of the building. Architect Joe Novitsky noted that the rear yard is shallow and they do not want to add lighting to the rear that is unnecessary.

Commissioner Smith inquired about the style of wall-mounted fixtures on the rear of the building. The applicant did not provide renderings or details for the wall-mounted fixtures.

Commissioner Murad noted that the proposed structure has a residential character and appearance.

Commissioner Trotto asked about potential of incorporating art on the façade or outdoor displays. Property owner noted that he would like to be part of that.

Commissioner Smith noted concerns about parking, asked about exterior materials and north facing rear doors. Also noted was the potential for snow drift to the adjacent building, due to the increased height at the subject property. Community Development Director Schlutow noted that the Building Official had reviewed the submitted plans and did not see a potential danger to the adjacent building; however, he would know better when the construction plans were submitted for review.

Commissioner Murad asked about potential sound or noise volume and impacts to adjacent property owners, as well as incoming light through south and west windows.

Commissioner Smith recommended utilizing tinted glass on south and west windows.

Commissioner Trotto asked about future signage. Property owner Tim Yanke had not considered signage.

Commissioner Buckler commented that the Master Plan and Design Guidelines detail the historic aesthetic of the neighborhood. The revised design fits better with the area.

Commissioner Kempner asked about removal of garbage or requirement for dumpster. The applicant noted that there is a place for trash removal and there would not be a need for anything more than that.

Commissioner Murad questioned the interior dimensions of the structure and how that relates to the parking requirement. Applicant Joe Novitsky noted that they provided parking based on the separation of uses, specifically, the mezzanine, sales, storage areas, etc.

Ryan Morrone, 3446 Prairie Ave., asked about the property boundary between the two properties and the existing fence. Mr. Morrone asked to review the boundary line to ensure privacy between the two properties; suggesting a stone wall or brick wall, consistent with the Design Guidelines to separate residential and commercial properties.

Commissioner Murad asked Mr. Morrone about stepping down a wall or fence.

Mr. Morrone likes the proposed building but is concerned about separation of business and residential districts and would like city to work with residents and property owner to come to beneficial solution.

Architect Joe Novitsky was unsure about feasibility of getting an easement for a wall or fence to separate the properties.

Commissioner noted that the applicant would need to contact Comcast or AT&T but is not sure if there is an easement.

Charles Tyrrell asked about design aesthetic ordinances in the Berkley Zoning Ordinance. Commissioner Smith read Section 138-679 (4) and Commissioner Buckler noted the objectives of the Master Plan and Design Guidelines.

Commissioner Richardson addressed Charles Tyrrell's questions.

Based on findings of fact, Commissioner Patterson motioned to approve SP-05-19, with the following conditions:

1. Property boundary masonry fence to be addressed by applicant and city staff, if an easement can be addressed;
2. Site plan review and approval by City Engineer and Department of Public Works;
3. Applicant will notify adjacent property owner regarding the adjusted height and possible snow drift.

Supported by Richardson

AYES: Buckler, Richardson, Campbell, Kempner, Patterson, Trotto, Smith

NAYS: Murad

ABSENT: Kapelanski

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2. **PUBLIC HEARING:** Matter Of Conducting A Public Hearing For Application PRZ-02-19, a Proposed Conditional Rezoning At 3339 Cummings Ave.

Vice Chairperson Smith opened the public hearing at 8:00 pm.

Applicant Grant Dryovage explained the project and the request for the rezoning of the property. Mr. Dryovage noted that this was a revised request from what had been reviewed by Planning Commission in November 2018. The revised rezoning will include splitting the property to allow the north 20 ft. of Lot 113 to remain in the Parking District and has been proposed to be sold to the City for a public municipal lot.

Public hearing closed at 8:01 pm.

3. **CONDITIONAL REZONING REQUEST PRZ-02-19:** Atex Builders, LLC, 3339 Cummings Ave, west side of Cummings Ave, south of Twelve Mile Rd is requesting a conditional rezoning of Lot 114 of Berkley School Park Subdivision from Parking District to Single Family Residential District (R-1D).

Commissioner Buckler asked about the maximum lot coverage and the proposed home size and noted that the property was rezoned by the City for a reason and that vision has not changed.

Commissioner Kempner asked about the number of parking spaces that could be developed. Community Development Director Schlutow noted it could be 15-20 spaces.

Commissioner Murad inquired about who owned the property to the west of the subject site. City Manager Baumgarten provided details of ownership of surrounding parcels currently occupied as parking and the possibility to develop the property if the rezoning is denied.

Commissioner Richardson asks about the requirement of the City to purchase the north 20 ft. of Lot 113, based on the conditions in the rezoning agreement and the existing plan related to rezoning the property. City Manager Baumgarten stated that there have been businesses in the surrounding areas that have not been able to move forward with development or re-occupancy due to the lack of parking in the area.

Commissioner Smith noted that there were a lot of steps that needed to fall into place.

Commissioner Patterson commented that the proposed idea works for the City and the neighborhood.

Commissioner Murad stated that the property owner to the west was also zoned parking and that should be addressed, if the conditional rezoning moves forward.

Commissioner Buckler asked the applicant about updating and improving the existing non-conforming structure rather than a complete tear down and rebuild. Applicant Grant Dryovage stated that the construction of the house is unsound and unsafe.

Commissioner Campbell noted that the conditional rezoning offers a win-win for both parties and this is the first step.

Commissioner Murad motioned to recommend approval of PRZ-02-19 to the Berkley City Council. Seconded by Commissioner Campbell.

AYES: Murad, Richardson, Campbell, Patterson, Trotto, Smith

NAYS: Buckler, Kempner

ABSENT: Kapelanski

4. **DISCUSSION:** Matter of discussing permitted marihuana establishments in the City of Berkley.

Commissioner Buckler thinks that there needs to be more control of marihuana businesses, including parking and fencing.

Commissioner Kempner asked about how many businesses would be proposed. City Manager Baumgarten stated that there would be three locations permitted, and some locations would be incentivized based on redevelopment opportunities.

Commissioner Richardson inquired about number of licenses versus the number of properties. City Manager Baumgarten noted that rooftop licensing may be permitted.

Commissioner Richardson asked about the 500 ft. distance requirement from welcome intersections into the City. City Manager Baumgarten stated that the intent was to prohibit the marihuana businesses from being the first establishment that is seen upon entering the community.

Commissioner Richardson asked about permitted use versus special land use. City Manager Baumgarten explained the business license application process and the administrative review for each application. Based on the incentive for redevelopment of properties, the site plan would be reviewed by the Planning Commission to ensure compliance with all ordinances and Design Guidelines, which would give the Planning Commission some control of the building and the site.

Commissioner Smith asked why Eleven Mile was singled out for possible location for grower facilities. City Manager Baumgarten noted that the industrial history of the area would lend to growth and production. Commissioner Smith noted that based on the way the City was platted, any marihuana business establishment would be adjacent to someone's yard.

City Manager Baumgarten stated that the majority of interest in marihuana businesses has been concentrated on retail and provisioning opportunities.

Commissioner Buckler asked about requirements for bars or shutters to secure the building.

Commissioner Trotto asked about noticing the property owners that live in the surrounding area. Commissioner Smith noted that some on the Commission mentioned preference for the special use in lieu

of permitted by right. Commissioner Trotto stated that he is concerned about the aesthetics of the structures. City Manager Baumgarten assured that the proposed process would permit to review the aesthetics as much as possible to ensure that the structure fits with the community.

Commissioner Kempner stated that the proposed ordinance did not make it clear how many licenses or properties would be permitted to operate in the City. City Manager Baumgarten noted that they would make that clear through the application process.

Commissioner Richardson asked about an additional zoning district that would permit marijuana businesses. City Manager Baumgarten did not want to target specific parcels, but rather locations within the City that would be incentivized for redevelopment; specifically, properties on Woodward and Eleven Mile.

Commissioner Buckler asked about the number of facilities permitted in the City and if that should be included in the Ordinance. Commissioner Buckler stated that there will be unhappy residents given the close proximity of marijuana businesses to someone's backyard and that should be taken into account.

Commissioner Murad liked the idea of a special land use.

Commissioner Campbell noted that the issue with making it a special land use is adding language making it non-transferable to somebody else; it doesn't run with the land. It would run with the applicant and the land; a "Conditional Special Land Use."

City Manager Baumgarten stated that there would be an administrative process that allows city staff to narrow down the applications prior to going before the Planning Commission for special land use approval.

Commissioner Smith asked about the exempt properties at the major intersections. City Manager Baumgarten explained that the intent is to prohibit those properties so that they are not the first use someone sees when entering the community. Commissioner Smith noted that those are the few properties that do not directly abut residential properties.

City Manager Baumgarten explained the proposed timeline for the adoption of the ordinances in order to begin accepting applications on January 1, 2020 and scheduling a public hearing for the September meeting is a critical component of meeting that timeline.

Commissioner Campbell agreed with the nominating procedure by the administration staff and then make recommendations to the Planning Commission and City Council.

Commissioner Richardson noted that the public hearing would allow for feedback from property owners and residents.

Planning Commission agreed to set the public hearing for the September meeting.

5. **DISCUSSION:** Matter of discussing ordinance amendment to Section 138-551 to convert violations of the Berkeley Zoning Ordinance from misdemeanors to municipal civil infractions.

Community Development Director Schlutow summarized the request of the change.

City Manager Baumgarten explained the history of the discussion with City Council and the appropriateness of having criminal offenses for certain zoning offenses and the intent to streamline the process.

Commissioner Richardson asked escalating process for certain cases. City Manager Baumgarten responded that there is a process to escalate to a misdemeanor if the municipal civil infractions have not been addressed.

Commissioner Buckler asked about existing process. City Manager Baumgarten explained the fees that are assessed based on the infraction.

Planning Commission agreed to set the public hearing for the September meeting.

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LIAISON REPORTS

Commissioner Richardson did not have anything to report from the Environmental Committee.

Commissioner Murad noted the very successful CruiseFest and Pub Crawl and currently working on planning the Irish Fest.

Commissioner Trotto did not attend the August DDA meeting.

Commissioner Smith attended the August City Council meeting and noted the first reading for the daycare zoning amendment and the first reading of the conditional rezoning for the La Salette property on Coolidge. Both passed unanimously.

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STAFF/COMMISSIONER COMMENTS

Commissioner Patterson appreciated former Commissioner Ann Shadle for her years of service.

Commissioner Trotto apologized for his attire; he attended the meeting straight from football practice.

Commissioner Smith asked about the Eleven Mile property with the horizontal siding. Community Development Director Schlutow provided update that the property owner was away on vacation and would discuss when he returned.

With no further business, the meeting was adjourned at 9:04pm.